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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 E. JEAN CARROLL,  
4

Plaintiff,

New York, N.Y.

5 v.  
6

22 Civ.10016 (LAK)

DONALD J. TRUMP,  
7

Defendant.  
-----x

Jury Trial

8 May 3, 2023  
9 10:05 a.m.  
11

12 Before:  
13

HON. LEWIS A. KAPLAN,

14 District Judge  
15 and a Jury  
16

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18

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1 (Trial resumed; jury not present)

2 THE COURT: Good morning, everyone.

3 MS. KAPLAN: Good morning, your Honor.

4 THE COURT: I am asking counsel to remind me that we  
5 should not let the day end without discussing the schedule for  
6 summations and for charging conference.

7 Okay. Let's get the jury.

8 (Continued on next page)

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1 (Jury present)

2 THE COURT: Good morning, folks. Hope you had a good  
3 night.

4 Dr. Lebowitz, you are still under oath.

5 We will proceed. Ms. Kaplan.

6 LESLIE LEBOWITZ, resumed.

7 DIRECT EXAMINATION

8 BY MS. KAPLAN:

9 Q. Dr. Lebowitz, we left off yesterday talking about PTSD, and  
10 I want to get back to that.

11 But before we get there, do you recall giving some  
12 testimony yesterday about something that E. Jean said, E. Jean  
13 Carroll said in her testimony at this trial?

14 A. Yes, but I'm not sure which part of it you are referring  
15 to.

16 Q. Well, let me just ask it this way. Have you been following  
17 in some way E. Jean Carroll's testimony at this trial?

18 A. I followed some of it. I was here the day before yesterday  
19 observing.

20 Q. And is that something you have done in other cases?

21 A. Sure.

22 Q. Now back to PTSD. Is there a degree of harm, Doctor, that  
23 is necessary in order for someone to be diagnosed with PTSD?

24 A. Yes, a very high level of harm. In order to get diagnosed  
25 with PTSD, you need to have symptoms in four different

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1 categories, and those symptoms need to be intense and  
2 disruptive.

3 So in order to meet full criteria for PTSD, you are  
4 talking about a pretty severe mental illness, which is often  
5 chronic. It is also the case that people can have symptoms in  
6 one or two categories and suffer a lot of negative consequences  
7 from that as well.

8 Q. And in this case, Doctor, did you diagnosis Ms. Carroll  
9 with PTSD?

10 A. I did not.

11 Q. Did -- does Ms. Carroll have symptoms in any of the four  
12 categories you talked about?

13 A. She does. She has avoidance symptoms, she has alterations  
14 in her thoughts and feelings about herself, and she has  
15 intrusions.

16 Q. Now, Doctor, based on your experience as a psychologist and  
17 your reading of the literature, what percentage of people who  
18 have experienced trauma then have sufficient symptoms to be  
19 diagnosed with PTSD?

20 A. You know, the data is a little bit complicated because  
21 there are so many different kinds of trauma, but it's  
22 approximately 20 to 30 percent of people who meet full criteria  
23 for posttraumatic stress disorder.

24 Q. And what about the people in the other 70 to 80 percent,  
25 Doctor?

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1 A. There is a larger category of people who have some enduring  
2 and painful symptoms but who will never meet full criteria. In  
3 fact, there has been some -- there was some research done a  
4 while ago where they looked at the impact of having a few very  
5 severe symptoms versus meeting full criteria, and the research  
6 was basically making the point that both are quite injurious to  
7 a life. However, we do think about PTSD as being a severe  
8 illness.

9 Q. Now, Mr. Lam, can you put up the second page of the  
10 demonstrative.

11 Understanding that every person is different, Doctor,  
12 are there broad categories of the ways in which a traumatic  
13 effect -- withdrawn.

14 Are there broad categories of the ways in which a  
15 traumatic event --

16 THE COURT: Sorry. Would you take that a little  
17 slower?

18 MS. KAPLAN: Sure. I apologize, your Honor.

19 BY MS. KAPLAN:

20 Q. Are there broad categories, Doctor, of the ways in which  
21 trauma can affect a person?

22 A. Yes. I think the easiest way to think about it is that  
23 what is remarkable about trauma is that it has a capacity to  
24 affect all aspects of our functioning. So it can affect us  
25 emotionally, biologically, it can affect how we think about

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1 things, and how we remember things, and it can of course affect  
2 how we behave and experience our lives. So there is really no  
3 aspect of self that cannot be reached by the impact of a severe  
4 trauma.

5 Q. I want to start at the beginning, Doctor. So, first of  
6 all, what happens to a person's brain when they are  
7 experiencing trauma?

8 A. When your brain is flooded with stress hormones, our normal  
9 functioning is altered, and E. Jean actually -- Ms. Carroll  
10 actually described this quite well when she talked about not  
11 feeling like herself, feeling like her thinking was disordered,  
12 feeling that adrenaline was surging through her body and that  
13 it was hard to make sense of things.

14 What happens to -- so what happens when you are  
15 flooded with hormones like that, stress hormones, is that what  
16 we call the prefrontal cortex, the control of the prefrontal  
17 cortex is reduced and diminished. The prefrontal cortex is  
18 basically the part of our brain that we have most associated  
19 with what it means to be human. It's the part that allows us  
20 to consider alternative courses of action, to plan, to kind of  
21 hold the big picture. It's really what people mean when they  
22 talk about being thoughtful and using their mental apparatus to  
23 negotiate their lives. That's kind of the prefrontal cortex.

24 That gets radically reduced when you are flooded with  
25 those kinds of hormones. What happens instead is a much older

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1 part of the brain, the part of the brain that we actually share  
2 with other mammals, it becomes much more active and much more  
3 influential; and what that means is that, rather than being  
4 able to rely the way we usually can on being thoughtful and  
5 evaluating different options and choosing the best one, we fall  
6 back on what are kind of automatic and habitual responses, kind  
7 of like a startle response. That would be a kind of behavior  
8 that comes from the older part of the brain. But it also leads  
9 people to essentially not be able to access certain behaviors  
10 that they and other people imagine one would access in a time  
11 of stress and, instead, do things that appear to be illogical  
12 and irrational.

13 Q. Mr. Lam, you can take down that page of the demonstrative,  
14 please.

15 So you are saying, Doctor -- if I understood you  
16 correctly, you are saying that the impact of the stress  
17 hormones on the prefrontal lobe can have a lot of impacts on a  
18 person's brain, one of which is for them to act in ways that  
19 may seem irrational or illogical. Is that fair?

20 A. Yes.

21 Q. Can you give me an example of that, or give the jury an  
22 example of that?

23 A. Many, actually.

24 The first one that comes to mind is I remember a story  
25 I heard when I was much younger, but it always stuck with me.

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1 It was a friend of my mother's was a child in Finland during  
2 World War II, and she was holding her mother's hand on a  
3 beautiful spring day when bombs began to fall, and the force of  
4 the bombs blew her mother's hat off; and rather than doing the  
5 obvious, rational thing that we all imagine we would do, which  
6 is to scoop her daughter up and run for safety, she dropped her  
7 daughter's hand and ran for her hat.

8 This is the kind of thing people do. People forget  
9 how to dial 9-1-1. They don't scream even if they are being  
10 raped in the stacks of the public library, when screaming might  
11 actually be helpful. There are just so many ways that we don't  
12 act in the way that we imagine we would. We fall back on  
13 something else.

14 Q. Now, Doctor, is there a part of the brain that lags behind  
15 because of these stress hormones that are flooding the brain  
16 during trauma?

17 A. Yes, and you actually heard a description of this, I think,  
18 the day before yesterday.

19 That prefrontal cortex that I just talked about, the  
20 thinking, considering part of the brain, is much slower than  
21 the automatic part of the brain. It is much slower to react.  
22 So if you think about how quickly you react to threat, you  
23 know, your body jumps right away, you can feel that in your  
24 body right away, but it takes much longer to figure out what is  
25 actually happening.

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1           So oftentimes when people suddenly find themselves in  
2 a dangerous situation that they didn't anticipate, their body  
3 begins to react to the fear, but their mind lags behind in  
4 figuring out what is actually going on, and there is something  
5 in that lag that may also account for some of the seemingly  
6 illogical ways that people respond.

7 Q. Now, how do the stress hormones that you have been talking  
8 about, Doctor, impact how a person remembers the traumatic  
9 event after it happens?

10 A. So they have a huge impact on memory. Memory is actually a  
11 complicated process, and at each stage of that process, what we  
12 are feeling and what seems important to us has an influence on  
13 what we can code, what we move into long-term storage, and what  
14 we are able to access afterwards.

15           And in particular, our -- and there are certain kinds  
16 of memory functions that essentially are less expensive than  
17 other ones, they use less resources. So sensory memory,  
18 remembering what something smelled like or felt like or sounded  
19 like, those are relatively inexpensive for our brain to do. We  
20 have a lot of bandwidth for that. But remembering, for  
21 example, the context of something when it happened, where you  
22 were living at the time, what the larger context of your life  
23 was, that can actually be much more difficult because that  
24 takes essentially more resources for the brain. And so in  
25 times of trauma, what people tend to -- they tend to

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1 hyper-attend to certain elements and actually lose other ones.

2 And I want to say two more things about this. One is  
3 that at the beginning of a traumatic event, we are more likely  
4 to hyper-encode information. But the hormones that facilitate  
5 that hyper-encoding are actually fairly toxic. And so it is  
6 often the case that by the end of a traumatic event, we are  
7 encoding even less. It is not uncommon, for example, for  
8 people -- and I think this is true of E. Jean, of Ms. Carroll,  
9 actually. It's not uncommon for people to remember all kinds  
10 of details at the beginning and then not really remember how  
11 they got away.

12 Another example that might be helpful to think about  
13 is if you think, you know, if you imagine a circumstance where  
14 you have left your kid playing on the sidewalk for just a  
15 minute while you ran in the house to grab something, and  
16 suddenly you hear this terrible screeching of a car and a  
17 sickening crash against metal. You run out of the house and  
18 you don't see your child.

19 That feeling, the sound of the screeching tire and  
20 that feeling in the pit of your stomach, you are never going to  
21 forget that feeling, right? But you could easily have a  
22 situation 15, 20 years later, ten years later, whatever, where  
23 you are talking with your spouse about that night, and the  
24 conversation goes something like that: *Do you remember that*  
25 *terrible night in Brooklyn? We weren't in Brooklyn. We were*

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1       in Manhattan. No, we weren't. We were in Brooklyn. And back  
2 and forth with, you know, It was 19 such-and-such. No, it was  
3 really this year. No, he was in third grade. He wasn't. He  
4 was in second grade. I wouldn't have let him outside. If he  
5 was in second grade.

6           So those kinds of details are context. They are the  
7 other things. And our brain doesn't hold onto things that at  
8 the time didn't seem important. Our brain holds onto the  
9 things that feel emotionally salient in the sense of  
10 life-threatening. That's what we hang on to and we hang on to  
11 it in a very visceral and physical way.

12 Q. People, Doctor, have memory lapses all the time. So what's  
13 the difference between just a regular memory lapse and what you  
14 have been discussing in terms of memory affected by trauma?

15 A. Normal memory fades in part because it's not that  
16 important, because we have other things to remember and it kind  
17 of goes away, because it is woven into the narrative of our  
18 life and it doesn't pop out in any particular way.

19           Traumatic memory lingers for a few reasons. One of  
20 the reasons is that, almost by definition, a traumatic memory  
21 is not woven into the fabric of your life in the same way. It  
22 often is not well-integrated in the brain, meaning the  
23 different pieces of it are often not woven together very well  
24 in the brain, and instead of being housed in your mind as a  
25 kind of coherent story with a beginning, a middle, and end,

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1 with all of the little pieces put together, it may be stored as  
2 literally just a smell or just a feeling in your body or just a  
3 sound. And when you reaccess that memory, it may come back,  
4 again, not as a story, but as a physical reexperiencing of  
5 something. It's what we call flashbacks, actually.

6 Q. In the time that you spent with Ms. Carroll, Doctor, did  
7 you observe any of these -- this kind of a memory?

8 A. I did. There was one point, I think it was sort of a  
9 little bit later on in the interview, when I was asking certain  
10 types of questions, where she began to squirm in her seat  
11 because she was actually reexperiencing Mr. Trump's fingers  
12 inside of her, what she alleges to be Mr. Trump's fingers  
13 inside of her.

14 Q. Doctor, what is an intrusive memory?

15 A. So an intrusive memory is when some part of the traumatic  
16 experience, either what it felt like or it felt like in your  
17 body or in your emotions, just pierces your consciousness and  
18 lands in the middle of your experience and essentially hijacks  
19 your attention. So you have heard descriptions of this in this  
20 trial, when Ms. Carroll talked about how she would just be  
21 going about her day and, for no reason that she could imagine,  
22 suddenly a memory would pop into mind and it was like her day  
23 would go on a swerve.

24 Q. And you may have just answered the question, but just to be  
25 clear, Doctor, what, if any, is the connection between

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1 intrusive memories and trauma?

2 A. So intrusive memories are like -- they are like flags that  
3 are planted where unresolved and painful traumatic experiences  
4 lie. You know, they are the signal that there is something  
5 here that has been too awful to digest like normal experience,  
6 and so it lies in memory in essentially an active form and  
7 comes into your life unbidden. It's like you don't choose to  
8 think about it; it just enters.

9 Q. Do people who experience intrusive memories, Doctor, always  
10 experience them in the same way? Now I'm asking from person to  
11 person.

12 A. No. One person might have nightmares, somebody else might  
13 have flashbacks, a third person might simply have an idea that  
14 takes control at times that comes from the trauma.

15 Q. And can one person, Doctor, have different kinds of  
16 intrusive memories?

17 A. Yes, and that's typical. One person could have -- could  
18 experience visceral, you know, physical remembrances, they  
19 could experience, you know, the sense of watching the scene  
20 roll out like a movie script. They could have nightmares.  
They could have fears that they respond to which are  
essentially some kind of an intrusion, yes.

21 Q. Ms. Carroll testified the other day in this courtroom,  
22 Doctor, that she rarely thinks about Donald Trump but that she  
23 has intrusive memories. Can you explain that to the jury from

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1 a psychological perspective?

2 A. Sure. So when Ms. Carroll is talking about thinking, she  
3 is talking about the activity of her prefrontal cortex. She is  
4 talking about all the moments when she is engaged in a  
5 creative, intellectual, thoughtful life. And most importantly,  
6 she is talking about the experience that she has chosen to  
7 think about something. It is volitional. Right?

8 Whereas when she talks about an intrusion, she talks  
9 about something that just enters her mind and takes her away  
10 from where she is and essentially hijacks her attention and  
11 which she has no control over. The issue of control here is  
12 fundamental, the question of whether you are choosing to think  
13 about something or something is just grabbing you.

14 Q. Now, are there -- as a general matter, Doctor, are there  
15 triggers for intrusive memories?

16 A. I think most of us would assume that there is always some  
17 kind of a trigger, but one doesn't always know what it is.

18 Q. And is it possible -- withdrawn.

19 Can you give the jury an example of someone from --  
20 having intrusive memory but not understanding what the trigger  
21 is?

22 A. Sure. I'm thinking about a veteran who is walking down the  
23 street, it's a beautiful day, he's feeling fine, and suddenly  
24 he's having a panic attack and he has no idea why. I happen to  
25 know that on the street he was walking down, there is a

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1 Vietnamese restaurant and he had combat exposure in Vietnam,  
2 and my guess is that it was the smell of Vietnamese food  
3 cooking that actually triggered a memory of having been in  
4 combat in Vietnam, but he's not aware of it. We can roll that  
5 back and I can make him aware of it, but he didn't know it.

6 Q. In the minutes after the alleged assault, Doctor,  
7 Ms. Carroll has testified that her overwhelming thought was  
8 that she was -- she had died but was still alive. Can you  
9 explain that again in psychological terms?

10 A. Yeah, this is a very interesting description, and it's  
11 extremely common to survivors of rape, and it's interesting  
12 because it applies even when the victim knows consciously that  
13 her life was actually never in danger. So, for example, if you  
14 were to ask Ms. Carroll: Did you think he was trying to murder  
15 you? She would say: Oh, absolutely not. And that's true for  
16 many, if not most, women who are raped by men who believe they  
17 had reason to trust. But yet it is incredibly common for  
18 people to describe the experience as a mortal threat. And I  
19 think this is because that's what it feels like  
20 psychologically.

21 If you think for a moment about what it means to be a  
22 person, how you experience your personhood, it starts very,  
23 very early in development, right, from the first time a baby  
24 starts, you know, throwing their spoon over the high chair  
25 through the tantrums of two- and three-year-olds and the

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1 independence of adolescence and into, if you will, adulthood.  
2 And through all of those transitions, one of the things that is  
3 happening is you are consolidating a sense of this is me and  
4 that is you, and we are distinguished because I have a boundary  
5 and you have a boundary. I can invite you in and I can push  
6 you away. But we know ourselves as -- we recognize ourselves  
7 as people, as fully human because we have boundaries and  
8 autonomy. We can take action. And what rape does is it so  
9 violates that sense of humanity and independence and selfhood  
10 than people feel psychologically that they are being killed.  
11 They feel at risk. They feel like their personhood is being  
12 murdered, even if they know at some level that they were never  
13 in that kind of mortal, physical danger, if that makes sense.

14 Q. Now, we have been talking about -- mostly about the brain  
15 and about emotional reactions. I want to pause for a second to  
16 turn to actual reactions in other parts of the body.

17 A. Okay.

18 Q. Can people who have experienced trauma actually feel  
19 physical symptoms in other parts of their body?

20 A. Yes. When I talk about a visceral remembering, it feels  
21 like it's happening right then. It feels like somebody's hands  
22 are on you or in you or in some way it is literally being -- it  
23 is literally -- it feels like it's happening in the present.  
24 It's one of the hallmarks of trauma is that the past doesn't  
25 stay past, it continues to revisit us now.

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1 Q. And in addition to feeling something, like, happening  
2 again, Doctor, can people experience common physical pains  
3 from --

4 A. Sure, I mean, there is a couple ways in which this is  
5 important, and it becomes very important over the lifespan,  
6 which is when you -- you know, when you are intruded upon or  
7 when you are struggling to avoid intrusive memories or in any  
8 way being revisited by the trauma, it is common to have -- for  
9 the stress hormones from that event to also revisit you. So  
10 people can have all kind of physical symptoms at the time, but  
11 even if there is not an awareness that that is happening in the  
12 present, it is well-documented at this point that there are  
13 long-term consequences, specifically a history of serious  
14 traumatic events, such as a sexual assault, is -- seems to  
15 contribute substantially to the development of a wide range of  
16 physical illnesses, including autoimmune diseases, diabetes,  
17 cardiovascular problems, musculoskeletal problems. So in other  
18 words, a history of trauma is a risk factor for the development  
19 of all kinds of illness down the road, and that's because of  
20 the effect of stress hormones on the body.

21 Q. In the time you spent with Ms. Carroll, Doctor, did you  
22 observe her feeling any of these physical symptoms?

23 A. At the very conclusion of our interview, where we had  
24 really gone over everything, and I think she had, because of  
25 the amount of time that we had spoken, she had gotten a kind of

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1 bird's eye view of her life, she doubled over, holding her  
2 stomach and just said I have a really bad stomachache. And  
3 after that, she got actually very sick with pneumonia, and so I  
4 didn't speak with her for a while, and then we then met over  
5 Zoom to complete the interview. She mentioned that she still  
6 had the stomach ache.

7 Q. Could you put up, Mr. Lam, the second page of the  
8 demonstrative again.

9 I want to turn now, Doctor, to the second category of  
10 harm, which is -- responses to trauma, which is changes in  
11 thinking.

12 You can take that down, Mr. Lam.

13 I am going to use kind of a fancy term, and I want, if  
14 you can, if you can explain it to the jury, Doctor, that would  
15 be great.

16 What does the term "schema" or the word "schema" mean  
17 in the context of psychology?

18 A. So we use the word "schema" as a shorthand way of  
19 describing how our mind holds all of our knowledge and all of  
20 our beliefs and all of our expectations. And these schemas or  
21 these mental maps or internal representations are all kind of  
22 interchangeable terms. They develop over the course of a  
23 lifetime, so they kind of layer one on top of each other. And  
24 the thing about a schema, the role of a schema is to both help  
25 you interpret what happens to you and respond to it adaptively

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1 and in the best way you can.

2 So, for example, we all know that there is danger  
3 everywhere, right? You know, bad things happen. But you all  
4 had to have some kind of operating schema that you could get  
5 out of bed this morning and get to the courtroom, and although  
6 you know that there is a possibility that you could have gotten  
7 shot on the way, that wasn't really the schema you were working  
8 with because if you were working with that schema, you probably  
9 wouldn't have left your house. So you work with the schema  
10 that it will probably be okay, I'll probably be safe enough,  
11 I'll get to the courtroom, I'll listen to testimony all day,  
12 and then I will go home and that will probably be okay, too.  
13 So that's an example of the fact that even though you have  
14 schemas that say, you know, people get shot, like you do know  
15 it, but you go forward into the day with the schema that  
16 most -- that's going to best facilitate your functioning that  
17 day and best fits the data of reality as it seems to you in  
18 that moment. We basically use the most positive, optimistic  
19 schemas we can use that seem to match up adequately with  
20 reality, and those schemas change, of course. If something  
21 happened, it would change. So that's kind of how they work.

22 Q. You just said, Doctor, a schema could affect your  
23 functioning that day. Do people have more than one schema?

24 A. Yeah, we have multiple schemas. We all have different ways  
25 that we think of ourselves. You know, I have one experience of

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1 myself when I am testifying, a different one when I am being a  
2 parent, yet another if I'm in a doctor's office. We all have  
3 different kind of representations of who we are depending on  
4 the circumstance, and those different representations also hold  
5 different feelings. So it's very common for people, it's  
6 actually, you know, universal for people to both have ways that  
7 they feel good about themselves and ways that they feel bad  
8 about themselves. We all have a whole host of schemas.

9 Q. What, if any, is the relationship between schemas and  
10 feelings?

11 A. Yeah, that's a good question. Schemas are usually thought  
12 about in a kind of cognitive way, you know, what do you  
13 believe, what do you know, but they are also attached to  
14 feelings because, you know, when you think about yourself as  
15 competent or incompetent, that then is attached to certain  
16 kinds of feelings that go with it.

17 Q. So how, if at all, Doctor, does experiencing trauma impact  
18 a person's schemas or the way they think about things?

19 A. It's one of the profound and enduring ways that trauma does  
20 affect. So, for example, if we go back to the schema of  
21 safety, if there was a part of your life in which you felt safe  
22 and then something terrible happens, your basic schema for  
23 safety might be shattered or radically changed.

24 Similarly, if you go forward into the world with the  
25 expectation that you are a person worthy of being respected and

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treated fairly or appropriately and something happens, somebody powerful denigrates and abuses you, it affects -- it has the power to affect how you think and how you feel about yourself.

Q. Doctor, in connection with the trauma of sexual abuse or sexual assault, what does the phrase self-blame mean?

A. So in this context, self-blame is understood as an irrational attribution of responsibility. So specifically, even though we all know that nobody can be responsible for the decision of somebody else to commit a crime against you, in sexual assault, it is unbelievably common for people to feel like it was their fault. Psychologists spend some time thinking about why that is, and one of the primary reasons or one of the primary motivations that seems to drive that kind of self-blame is that the experience of being raped is such an overwhelming and horrifying experience of being rendered helpless and if, in some way -- even if it's not true, even if it's irrational and even if it's harmful long-term, but in the immediate aftermath, if there is some way that you can clutch back control, clutch back a sense of power, people will do it. And one of the ways that people do it is they think, well, if only I didn't do that, it wouldn't have happened. So therefore, if I don't do that, whatever it is, it will never happen again, and it's a way for people to try to push back against feeling helpless and out of control, by taking the responsibility onto themselves.

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1           The problem, of course, with it is that when you take  
2 responsibility for something terrible having happened when it  
3 actually isn't your responsibility, it makes you feel very bad  
4 about yourself and it is also not true, and so it makes it  
5 harder to work through the trauma.

6 Q. Doctor, does a person whose been sexually assaulted  
7 actually have to believe at a conscious level that they are to  
8 blame for being assaulted?

9 A. No. I mean, absolutely not. I think, you know, this is  
10 the -- this is the conundrum of the human mind, which is that  
11 there are things that we think and there are things that we  
12 feel and they don't always line up. So, no, people who believe  
13 politically and in every way that a woman cannot be responsible  
14 for the decision of a man to rape her nonetheless will feel  
15 guilty and ashamed and responsible when it happens.

16           It is such a -- it is such a ubiquitous response, it  
17 is so common that when I was in graduate school and doing my  
18 original research, I once made a list of all the reasons that  
19 women blame themselves for being raped because it -- well, I  
20 will explain.

21           So on that list, I had people who said, well, I was  
22 raped because I was wearing a short skirt, which is the kind of  
23 standard one.

24           Somebody else said, I was raped because I was wearing  
25 a long skirt. It caught his attention.

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1                   Somebody thought she had been raped because she pushed  
2 her hair back over her shoulder.

3                   Somebody thought she had been raped because she went  
4 to a party.

5                   Somebody thought she was raped because she didn't go  
6 to a party, and it was punishment.

7                   And then finally I had a woman who was raped by a  
8 stranger in the middle of the night in her house and she said,  
9 well, I haven't really figured out what I did yet, but I'm sure  
10 I will. I'm still thinking on it.

11                  So all of those are sort of indications of how  
12 desperate and how irrational people are to feel some sense of  
13 control over their bodies and their lives again.

14 Q. Mr. Lam, could you put up the second page of the  
15 demonstrative, please.

16                  I would like to turn now, Doctor, to the third item on  
17 this page, which is changes in behavior. And let me begin by  
18 asking, does a person -- this sounds like a crazy thing to say,  
19 but does a person learn from trauma?

20 A. Yes, of course.

21 Q. You can take that down, Mr. Lam.

22 A. Of course. The most striking aspect of what it means to be  
23 a person, you know, as a species, is our extraordinary capacity  
24 to learn and adapt. That's why, you know, we live in so many  
25 places on the earth and why we are the dominant species.

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1           But that extraordinary capacity is also the portal  
2 through which trauma harms us. Trauma can be thought of as  
3 essentially an indelible form of learning. You learn something  
4 that you didn't want to know. It changes how you think about  
5 things, it changes your brain, and then you have to adapt to  
6 it.

7 Q. So what, Doctor, does the phrase "avoidant behavior" mean?

8 A. Avoidant behavior is any kind of action that a person  
9 takes—and that can be internal, as in batting away thoughts,  
10 or external, as in avoiding certain people or places—that  
11 helps them avoid reminders, *i.e.* avoid intrusions, and avoid  
12 remembrances of what happened.

13 Q. And is there a connection between avoidant behaviors and  
14 trauma, Doctor?

15 A. Yes, avoidant behaviors are what we do when we are trying  
16 to avoid traumatic memory.

17 Q. And why do people engage in adaptive -- avoidant behaviors,  
18 excuse me?

19 A. So that they don't have to -- they avoid them in an effort  
20 to both stay safe and to avoid a repetition of what happened  
21 and also to avoid thinking or feeling about it to the best of  
22 their ability.

23 Q. Now, when someone, Doctor, who has experienced trauma is  
24 engaging in avoidant behavior, do they always know that that's  
25 what they are doing?

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1 A. No. Sometimes they know and sometimes they don't. And  
2 sometimes they know and they can't get themselves to stop.

3 Q. Now, does every person respond to trauma? I think we may  
4 have touched on this, but does every person respond to trauma  
5 exactly the same way?

6 A. No, absolutely not.

7 Q. And what explains the variation?

8 A. Well, part of it is just that people are different. Part  
9 of it is that traumas have different meanings, both, you know,  
10 across the board, but also to individual people.

11 People are also different over the course of their  
12 lifespan. What you could manage as an adult you might not be  
13 able to manage as a much younger or a much older person.

14 And people also have different strengths and  
15 vulnerabilities. Some people are more resilient in some ways.

16 I think one of the things to just think about also in  
17 terms of trauma is that, you know, we all have some strengths  
18 and some weaknesses, right? But sometimes when the  
19 circumstances change very unexpectedly, what has been a  
20 strength becomes a weakness, and that can happen also.

21 Q. What does the phrase "resilience" mean, Doctor?

22 A. Resilience is a way of describing an individual's ability  
23 to kind of bounce back from adversity, and people have  
24 different amounts of resiliency and different amounts of  
25 resiliency for different kinds of situations. Somebody might

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1 be very resilient for certain things and then that resiliency  
2 might run out around something else.

3 Q. And what explains -- what, if any, factors explain  
4 differences in resiliency, Doctor?

5 A. Well, that is still a matter to some extent of open debate,  
6 but we know a few things that seem to facilitate the  
7 development of resilience. One is having a warm, supportive  
8 family. The other is being intelligent, attractive, and  
9 sociable. The third is having experiences which are  
10 challenging and difficult, but not traumatic. It sort of  
11 builds strength.

12 Q. I want to turn now to Ms. Carroll, and I know you said it  
13 yesterday, but just to remind the jury, what are the ways that,  
14 in your view, Ms. Carroll has been negatively impacted by the  
15 incident at Bergdorf Goodman?

16 A. She suffers from intrusions. She suffered a diminishment  
17 in her ability to feel positively about herself in certain  
18 ways. She experiences or manifests avoidance behaviors which  
19 have led to an inability to maintain a romantic and intimate  
20 life, which has led to deep feelings of loss.

21 Q. Now, we spoke a bit about schemas in the way someone sees  
22 themselves in the world. How has the incident at Bergdorf  
23 Goodman affected Ms. Carroll's schemas, the way she sees  
24 herself in the world?

25 A. Well, partly because she blamed herself for it. She felt

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1 like she was stupid in a way that was hard to shake. But  
2 perhaps even more fundamentally than that, it made her feel  
3 like she was worth less than she had been before. She felt  
4 degraded and diminished. She felt like she had been treated as  
5 if she wasn't even a person. And that, of course, made her  
6 feel like she was worth less than a person -- than the person  
7 she had been.

8 Q. Is there any connection between what you just said, Doctor,  
9 and Ms. Carroll's reluctance to use words like "rape" or  
10 "victim"?

11 A. Sure. There is all the connection. Ms. Carroll, you know,  
12 like most of us in many ways, doesn't want to be a victim,  
13 doesn't want to be pitied, but perhaps more than most people,  
14 she has fiercely identified with being strong, being resilient,  
15 being the person who can just march on and overcome thing, you  
16 know, stiff upper lip, take an action and put it behind you.

17 And being raped meant, to her, being a victim, being  
18 weak, being stupid, being vulnerable, being dirty. And so  
19 there is no part of her that wanted any part of that word to  
20 apply to her, and so it was very hard to use it. Using a word  
21 like "fight" is much more attractive because it places her in  
22 an active role. Using a word like "rape victim" suggests that  
23 the other person actually dominated in that fight, and that's  
24 painful.

25 Q. Doctor, we have talked about self-blame, but what, if any,

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1 conclusions did you reach about whether Ms. Carroll experiences  
2 self-blame?

3 A. Absolutely. I think for many years, for most of the years,  
4 she just simply blamed herself for the assault, period. She  
5 just felt like she had done something stupid and that's why it  
6 happened. She was also afraid of other people blaming her,  
7 which is an understandable fear.

8 Q. And moving forward to more recent periods, does she still  
9 at a conscious level believe that she is to blame?

10 A. I think, you know, based on the advice she gave other  
11 women, based on, you know, changes in the political landscape,  
12 I think that if you asked her what she believes is true, she  
13 would say, no, a woman can't be responsible. If you asked her  
14 what do you feel is true, I think she would probably still say,  
15 well, it still feels like it's kind of true. That's just one  
16 of the ways that humans work. We don't always feel what we  
17 think.

18 Q. Now, we have talked about intrusive memories, and I  
19 apologize if this is slightly repetitive, but what, if  
20 anything, Doctor, did you conclude with respect to whether  
21 Ms. Carroll experiences intrusive memories?

22 A. She does. She experiences intrusive physical remembrances.  
23 She can still feel aspects of the assault. She can still hear  
24 aspects of the assault. She remembers the feelings in her  
25 body. She sometimes sees pieces or all of the experience kind

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1 of spooling like a video before her. She has some night  
2 terrors that might be related. And sometimes just some part of  
3 it just pops into her mind unwittingly, you know, without  
4 choice.

5 Q. What, if any, impact do these intrusive memories have on  
6 Ms. Carroll day to day?

7 A. I think there are two ways in which they operate. On a  
8 day-to-day, they come up, they capture her attention, and they  
9 diminish her quality of her day. They infect it with a kind of  
10 darkness and a sadness that wouldn't otherwise be there. But  
11 probably the most notable way in which it affects her is  
12 that -- is the ways in which she works so hard, so assiduously  
13 to avoid feeling the fear, the vulnerability, and the sense  
14 that it was her fault, yeah.

15 Q. During your interviews or your time speaking with  
16 Ms. Carroll, are there any examples of her experiencing  
17 intrusive memories that come to mind?

18 A. There was the experience of the fingers that I mentioned.  
19 There were several times where she just was clearly feeling in  
20 her body what had happened, and those are very uncomfortable  
21 times for her.

22 Q. Is pushing away the intrusive memories that you have  
23 discussed, is that a kind of avoidant behavior?

24 A. It is.

25 Q. And how is this -- I think you touched on it, but how has

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1       this effort to bat them away impacted Ms. Carroll?

2       A. Well, it takes a lot of mental work. It's part of what you  
3       are doing when you should be doing something else; you are  
4       pushing them away.

5                  I also think that intrusive memories are what drive  
6       avoidant behaviors, and avoidant behaviors have been very  
7       prominent in her posttraumatic response.

8       Q. Now, in terms of intrusive memories—and there is been some  
9       testimony about this in this case—at a certain point in time,  
10      Donald Trump announces that he is running for president, and so  
11      his image is around a lot more than previously. Can you  
12      explain what, if any, impact that had on Ms. Carroll's  
13      intrusive memories?

14      A. Yes. Well, at first it got much worse. She had many, many  
15      more intrusions and many more physical symptoms in response to  
16      the intrusions. But over time it began to diminish somewhat so  
17      she did not feel as inundated with those intrusions.

18      Q. Is there a scientific explanation for that?

19      A. Yeah, it's actually -- the basis of probably the most  
20      common cognitive behavioral treatment for trauma is called  
21      exposure therapy, where you expose somebody to what they are  
22      afraid of, what they are trying to avoid. The idea is that if  
23      you do it enough, the brain begins to learn that it is not  
24      present. It is pushed away a little bit, and you become less  
25      afraid. So ironically, the -- Mr. Trump running for president

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1 was a kind of real-world exposure treatment. Suddenly he was  
2 everywhere. She couldn't avoid him. Her symptoms got much  
3 worse initially, which is what happens in exposure treatment,  
4 as well. And then they got somewhat quieter, which also  
5 happens in treatment.

6 Q. What, if anything, Doctor, did you conclude about  
7 Ms. Carroll's resiliency?

8 A. I think she is an extremely resilient person.

9 Q. And can you explain to the jury why you think she is so --  
10 why you think she is so resilient.

11 A. You know, she never hesitated to take on challenges. She  
12 did all kinds of things that were really remarkable and unusual  
13 for a woman in that time, and she had prior adversity that she  
14 overcame without any significant diminishment to her life.

15 Q. And is there anything about her background that explains to  
16 you, Doctor, some of that resiliency?

17 A. Yeah. She had a warm, loving family. There was a lot of  
18 independence in her childhood, a lot of rough-and-tumble play  
19 in her childhood, and her family, her family's culture fostered  
20 a lot of grit, a lot of not attending to feelings of  
21 vulnerability but, rather, simply coping with them. So, for  
22 example, when kids got hurt or when somebody got bullied or had  
23 some kind of an adverse experience, the message from her family  
24 was very much take care of that and move on. It was not  
25 discussed. It was not indulged in any way.

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1 Q. Apart from batting away -- having to bat away intrusive  
2 memories, does Ms. Carroll engage in avoidant behaviors in any  
3 other ways?

4 A. She does.

5 Q. How?

6 A. The most -- I mean, some avoidant behaviors aren't a  
7 problem. She avoids certain kinds of media representations,  
8 like rape in the media and things like that, and those aren't a  
9 problem. Those are perfectly reasonable adaptations.

10 The one that is really a problem for her is that  
11 following her encounter with Mr. Trump, she began to shut down  
12 in the presence of any potentially eligible man. So any man  
13 that was about her age, as Mr. Trump is, and who is seen to be  
14 somebody who she might be able to be interested in, she began  
15 to have this experience that she described as being like a  
16 metal grate over a storefront window just pulling down, and as  
17 it pulled down, her eyes would also get pulled down and her  
18 whole -- and rather than her usual extremely vivacious and sort  
19 of extroverted and playful, interpersonal style, she would find  
20 herself looking at the ground and speaking in monosyllables,  
21 and she hated it. I don't think in the beginning she really  
22 knew why she was doing it, but it was an uncontrollable  
23 response. She couldn't stop doing it. And that closing down,  
24 that shutting down, you know, she is avoiding anything that  
25 reminds her of threat, anything that reminds her of the

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1 situation in which she felt so harmed. But in doing so, she  
2 also foreclosed certain possibilities in her life.

3 Q. Can you provide an example of this, Doctor?

4 A. One happened during the interview. She got in the elevator  
5 in the hotel and an attractive man about her age got in also.  
6 They were both going to get coffee, and rather than engaging in  
7 her customary banter, which she would have done had it been a  
8 woman getting in the car getting a cup of coffee, she just  
9 found herself looking at the ground and unable to speak. And  
10 that day she was very aware of it because we were in the middle  
11 of interviewing, and even then she could not control the  
12 symptom.

13 Q. When did Ms. Carroll start engaging in the avoidant  
14 behavior that you have just been talking about?

15 A. After the alleged event with Mr. Trump.

16 Q. And you touched on this a couple of questions ago, but what  
17 is your best understanding of when she first realized this was  
18 happening?

19 A. You know, there are so many times when things flicker in  
20 and out of awareness, so you might have a moment where you kind  
21 of know it, and then you mostly don't know it. I don't think  
22 she really knew that it was connected until -- potentially even  
23 until she wrote the book. I think she came up with a lot of  
24 alternative explanations, which is what people do. You know,  
25 when you see yourself engaging in a behavior that isn't what

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1 you want to do and doesn't make sense, the mind makes up  
2 alternative explanations. And so she decided she just hadn't  
3 met the right guy yet, you know, she hadn't been lucky, she was  
4 getting older. I think she just -- and I think she just came  
5 up with a bunch of explanations, and then I think she didn't  
6 hold on to the connection, which is also incredibly common for  
7 trauma, that the connection between your current problems and  
8 the past traumatic experience, that connection gets buried and  
9 people lose it.

10 Q. And how does Ms. Carroll's avoidant behavior with respect  
11 to eligible men her age compare to her romantic patterns before  
12 the incident at Bergdorf Goodman? And again, I don't want you  
13 to give any specificity, just very general.

14 A. It's a very sharp departure. Actually, it's a complete  
15 departure. Her previous pattern had been to be in a long-term  
16 partnership and, when that wasn't happening, to date pretty  
17 avidly for a period of time until she found somebody else she  
18 wanted to be in a long-term partnership with, and she was very,  
19 very social and outgoing, and all of that changed afterwards.

20 Q. Now, how do you reconcile what you have been saying about  
21 avoidant behaviors, Doctor, with the fact that Ms. Carroll  
22 continued to shop at Bergdorf Goodman?

23 A. Well, she didn't feel that Bergdorf Goodman raped her was  
24 the primary reason. The store -- she didn't blame the store.  
25 She blamed herself. The store didn't feel threatening. I also

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1 think that -- yeah, I think that's the primary reason.

2 Q. You just said she didn't feel that Bergdorf Goodman raped  
3 her, but you are also aware, are you not, that Ms. Carroll from  
4 time to time would watch *The Apprentice*?

5 A. Yes.

6 Q. And how do you reconcile her avoidant behaviors with that?

7 A. Okay, that sort of links to the other thing I was going to  
8 say. I think anywhere Ms. Carroll could see evidence that she  
9 was negatively affected by what happened, she would fight  
10 against it. So to not go back into Bergdorf's would have been  
11 really obvious, given how much she loved that store. To not  
12 watch *The Apprentice* in her social and professional circle at  
13 the time would have -- would have revealed something, it would  
14 have led her to stand out in some way, because there was a lot  
15 of excitement about that show in her circles. So I know she  
16 did watch it and she did admire it professionally, but I don't  
17 think she watched it anywhere nearly as much and certainly  
18 without the kind of pleasure that she would have watched it had  
19 that event not happened. So I think she basically did the  
20 minimum where that was concerned.

21 Q. Are you aware of how Ms. Carroll reacted the first time she  
22 saw footage from *The Apprentice*?

23 A. I am, and it is significant. So the first time she saw  
24 footage, she had gone -- I don't remember which studio it was,  
25 but she had gone to a television studio to pitch a new show,

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1 and she went with a colleague and they were going to go back  
2 and forth and kind of co-pitch the show. And the producer  
3 said, I've got something I want to show you, and he clicked on  
4 the trailer for *The Apprentice*. She became so flooded with  
5 feelings, with memories, with feelings, with a sense of panic  
6 that she actually lost her capacity to speak, which is  
7 something people often talk about in an instance of feeling  
8 really flooded and overwhelmed by feelings. Literally she  
9 couldn't find the words and she shut down, and the person she  
10 was with needed to pitch the entire show because she was so  
11 overwhelmed at that time.

12 Q. One more question on this, Doctor. How do you explain the  
13 fact that Ms. Carroll kept the dress she wore that day in her  
14 closet?

15 A. I think it's a similar dynamic. I think that she loves  
16 clothes, and that was the most expensive dress she had ever  
17 bought. I think to get rid of it would have been so out of  
18 character, it would have been impossible to avoid the  
19 realization that she was that negatively affected.

20 I also think at a deeper psychological level I think  
21 Ms. Carroll knew that there was a part of her that was stuck  
22 there, that was stuck with what the dress represented, that she  
23 had lost something that she couldn't get back, and she held on  
24 to the dress almost as a way of holding on to the hope that she  
25 would one day be able to revisit it and reclaim the part of

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1 herself that she had lost.

2 So I think there are a few reasons why she held on to  
3 the dress.

4 Q. During your examination, Doctor, did you discuss with  
5 Ms. Carroll a negative experience she had as a young girl with  
6 a camp counselor?

7 A. I did.

8 Q. How do you know that that experience isn't the cause of the  
9 harms that you have been discussing here during your testimony?

10 A. Well, part of how I know is that there is about more than  
11 40 years of active, happy, joyful interactions with men and  
12 with the social world after that. So there is no evidence from  
13 her life that that event, although it was painful at the time,  
14 that it disrupted her functioning in any serious way.

15 Q. Did you discuss with Ms. Carroll a negative experience she  
16 had with the CBS head Les Moonves?

17 A. I did.

18 Q. And how do you know that that experience isn't the cause of  
19 the problems that you have been discussing?

20 A. Well, even though the time span is much shorter because she  
21 was an adult with Les Moonves, again, her behavior does not  
22 change after that event and she didn't hold herself responsible  
23 for it. But mostly it's because she didn't have any symptoms  
24 from it.

25 Q. Did you discuss with Ms. Carroll her second marriage to a

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1 gentleman by the name of John Johnson?

2 A. I did.

3 Q. About how much time did you spend discussing that with her?

4 A. We came back to it several times, about an hour.

5 Q. And what was your understanding of their relationship?

6 A. I think Ms. Carroll and Mr. Johnson loved each other a  
7 great deal. I think they had a strong connection. It was also  
8 a somewhat combustive relationship. Her assessment was that we  
9 are not well-suited to be married to each other, but there was  
10 a lot of love and respect between them, as well.

11 Q. And you were aware there was some incidence of violence in  
12 that relationship?

13 A. Yes. There were three instances of quite serious violence,  
14 and it's why the marriage ended.

15 Q. Sitting here today, Doctor, are you aware that Mr. Trump's  
16 expert -- withdrawn.

17 How do you know that the violence in that relationship  
18 wasn't the cause of the problems that we have been discussing?

19 A. Well, there are really two ways I know. One is, after her  
20 marriage ended and the -- kind of the heat was taken out, she  
21 and Mr. Johnson continued to be friends, they continued to  
22 watch the news together, sometimes there were even periods of  
23 intimacy in the year or two after that marriage ended, and that  
24 kind of came to a close as she was resuming her normal dating  
25 and socializing behavior. So her pattern after that marriage

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ended in terms of her social interactions with men were the same as they had been before that marriage, so there was no change in -- there was no sort of discernible or objectively discernible change in her behavior until after the experience with Mr. Trump.

Q. One final question, Doctor. What is the best way for someone who is not an expert in psychology to make sense of the impact, the psychological impact that the assault at Bergdorf had on Ms. Carroll?

A. Because she was frightened and rendered helpless in a way that had never happened to her before and because she blamed herself and because the meaning of that event and the feelings associated with it were simply too big for her to cope with in her usual ways, it became a stuck point in her life, something that she had to walk around in her day-to-day basis; and, in doing that, in working so hard to stay away from those feelings of helplessness and vulnerability, she gave up one of the great sources of joy and connection in her life, which was the opportunity to be intimate with a man, and that was a huge loss for her.

MS. KAPLAN: No further questions.

THE COURT: All right. Thank you. We will take our morning break. 15 minutes, please.

(Recess)

(Jury not present)

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1                   THE DEPUTY CLERK: Should I get the jury?

2                   THE COURT: Yes.

3                   MS. KAPLAN: Could I bring up one housekeeping matter?

4                   We appreciate and understand the difficulties with Dr. Nace's  
5                   health issues, but if we are going to take his testimony  
6                   tomorrow, someone has to book a flight, board a flight, and  
7                   then we have to figure out how that impacts our other  
8                   witnesses. So we are getting close to the point in time where  
9                   it will be logistically almost impossible, and I just want to  
10                  see if we can get a hard date. They still don't know, and I  
11                  appreciate that, but we really do need to know very soon.

12                  MR. TACOPINA: So, your Honor, I spoke to Ms. Kaplan  
13                  just a few minutes ago outside. I will be making a call at the  
14                  lunch break to get an update. It's really day by day. But, as  
15                  I said, I will let them know at the end of lunch one way or  
16                  another what the status is, and we will proceed either way.

17                  THE COURT: Well, I don't understand exactly what that  
18                  means. You will proceed either way means that you are going to  
19                  use him or you are not going to use him, and if the answer is  
20                  you want to use him and there isn't a flight available to get  
21                  anybody down there, what's happening in your estimation?

22                  MR. TACOPINA: Yes, your Honor, I just want to say  
23                  that I think everything we have discussed on this matter has  
24                  been *in camera*, under seal. I don't want to get into the issue  
25                  because it is not --

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1                   THE COURT: No, I think you are absolutely right in  
2 that, and I appreciate and respect that, but we have a  
3 practical problem.

4                   MR. TACOPINA: Yeah, which will be resolved today.  
5 When I say one way or another, either we will schedule it for  
6 tomorrow or we won't schedule it at all.

7                   THE COURT: So does somebody get on an airplane now or  
8 not?

9                   MR. TACOPINA: Right. That's what I said I would let  
10 them know after the lunch break. I have no phones.

11                  THE COURT: Look, Ms. Kaplan, what is the latest you  
12 can know in order to get somebody on an airplane?

13                  MS. KAPLAN: Lunchtime, your Honor, but I would prefer  
14 to hear at the beginning of lunchtime, rather than the end of  
15 lunchtime, so we can see what flights are available.

16                  (Continued on next page)

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Lebowitz - Cross

1                   THE COURT: You can see what flights are available  
2 now.

3                   MR. TACOPINA: I'm trying. I'm really trying.

4                   THE COURT: I'm not questioning that. I'm not  
5 questioning that.

6                   MR. TACOPINA: Yes.

7                   THE COURT: All right. Let's cut the baby in  
8 quarters. 1:15. OK? Fish or cut bait. Can you do that?

9                   MR. TACOPINA: If we break a few minutes before 1:00?  
10 Because I have to go down and get the phone, your Honor.

11                  THE COURT: Yes. And we will break a few minutes  
12 before 1:00, we will break at quarter to 1:00.

13                  MR. TACOPINA: Yes.

14                  THE COURT: We will deal with it.

15                  All right let's go. Get the jury.

16                  THE DEPUTY CLERK: Jury entering.

17                  (Continued on next page)

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Lebowitz - Cross

1 (Jury present)

2 THE COURT: OK. Mr. Siegel, cross-examination.

3 MR. SIEGEL: Thank you, your Honor.

4 CROSS-EXAMINATION

5 BY MR. SIEGEL:

6 Q. Good morning, Dr. Lebowitz.

7 A. Good morning, Mr. Siegel.

8 Q. You were hired by Ms. Carroll's attorneys to evaluate her  
9 in this case; correct?

10 A. Yes.

11 Q. And also to prepare an expert report; right?

12 A. Yes.

13 Q. To testify on her behalf at a prior deposition on March  
14 14th of this year?

15 A. Yes.

16 Q. And, of course, to testify at this trial?

17 A. That is correct.

18 Q. And you are being paid \$600 an hour for the services you  
19 are rendering on Ms. Carroll's behalf?

20 A. That is correct also.

21 Q. You interviewed Ms. Carroll sometime around Thanksgiving of  
22 last year?

23 A. I believe that is when the interviews began.

24 Q. And during that interview process you prepared  
25 contemporaneous notes of what Ms. Carroll said to you; is that

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1 right?

2 A. Yes.

3 Q. In fact, as she spoke to you, you were quickly typing what  
4 she said; right?

5 A. Yes.

6 Q. And incorporating what was conveyed to you by Ms. Carroll,  
7 you then prepared an expert report containing your opinions in  
8 this case?

9 A. Yes.

10 Q. Now, as an expert witness, you understand that the  
11 materials you prepare in connection with the case may be relied  
12 upon in a court; right?

13 A. Yes.

14 Q. So when you prepare those materials you want to be as  
15 complete and accurate as possible; is that right?

16 A. Yes.

17 Q. And you certainly make it a point not to omit any  
18 information you deem important, right?

19 A. Not that I deem important.

20 Q. Now, on direct you testified about the supposed ways  
21 Ms. Carroll has been negatively impacted by the alleged  
22 incident at Bergdorf Goodman and what allegedly being raped  
23 meant to Ms. Carroll. You are not offering an opinion in this  
24 case --

25 THE COURT: I'm sorry, counselor. This is sounding

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Lebowitz - Cross

1 compound.

2 MR. SIEGEL: I will rephrase.

3 Q. Ms. Carroll -- excuse me -- Dr. Lebowitz, on direct you  
4 testified about, these are your words: The ways Ms. Carroll  
5 has been negatively impacted by the alleged incident at  
6 Bergdorf Goodman; is that right?

7 A. Yes.

8 Q. And you also testified about what allegedly being raped  
9 meant to Ms. Carroll; is that right?

10 A. Yes.

11 Q. Now, just to be clear, you are not offering an opinion in  
12 this case on whether the alleged sexual assault in fact  
13 occurred; is that correct?

14 A. That is correct.

15 Q. Your opinions are simply assuming that it did; is that  
16 right?

17 A. My opinions are focused on the observable consequences of  
18 that event, not on assessing the rape, the event itself.

19 Q. So in answer to my question are you assuming, for purposes  
20 of your opinion, that the alleged rape occurred?

21 A. I'm not opining about that.

22 Q. So you have no opinion one way or the other?

23 A. Well, that's different.

24 Q. You just testified that you are not offering an opinion in  
25 this case on whether the alleged sexual assault occurred;

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1 right?

2 A. That is correct.

3 Q. And, to be clear, you have no independent knowledge of  
4 whether that alleged sexual assault occurred or not; right?

5 A. That is correct.

6 Q. Let's -- withdrawn.

7 Your opinions in this case are based upon the accuracy  
8 and truth of what Ms. Carroll told you; right?

9 A. Yes.

10 Q. If Ms. Carroll made up this entire event, that would be a  
11 problem for your report and opinion; right?

12 A. Yes.

13 Q. Likewise, if Ms. Carroll falsely told you about her  
14 feelings, that would render your report and opinion unreliable;  
15 correct?

16 A. Yes.

17 Q. And if Ms. Carroll falsely told you about her alleged  
18 symptoms, that also would render your report and opinion  
19 unreliable; correct?

20 A. Yes.

21 Q. Now, on direct you testified that Ms. Carroll:  
22 "Experiences intrusive physical remembrances and can still feel  
23 aspects of the assault. She remembers the feelings in her  
24 body, she sometimes sees pieces of the experience kind of  
25 spooling like a video before her."

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1 Now, that opinion is based on the accuracy and  
2 truthfulness of what Ms. Carroll told you, correct?

3 A. Yes.

4 Q. Dr. Lebowitz, you are familiar with the term "malingering"  
5 in a forensic or psychological aspect?

6 A. I am.

7 Q. And what malingering means is lying, correct?

8 A. Yes.

9 Q. That means lying about a symptom, yes?

10 A. Yes.

11 Q. Lying about a feeling?

12 A. Yes.

13 Q. Lying about a cause?

14 A. Sure.

15 Q. And of course lying about an event; is that right?

16 A. Yes.

17 Q. Now, you understand that Ms. Carroll has a vested interest  
18 in the outcome of this case, right?

19 A. I'm not sure what you mean by vested, but she certainly  
20 cares very much about the outcome of the case; yes.

21 Q. That's what I meant.

22 You understand that, right?

23 A. Yes.

24 Q. OK.

25 Would it be fair to say that she may have presented

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Lebowitz - Cross

1 her symptoms and experiences in a way that would benefit her  
2 case?

3 A. I don't believe she did that. Actually, I think that she  
4 is so averse to being symptomatic and to being vulnerable that  
5 there have been many times where she has actually presented  
6 herself in ways that run exactly counter to, for example, my  
7 conclusions that she was injured.

8 Q. Based on your experience, though, in light of that  
9 statement, you would agree that if someone falsely accuses  
10 another of misconduct, it is conceivable they might be hesitant  
11 to provide fabricated details relating to that accusation?

12 A. I'm not sure that I have -- I'm not sure that is within my  
13 expertise.

14 Q. I want to direct your attention to your deposition  
15 testimony on March 14th, 2023.

16 THE COURT: Can I have a copy, please?

17 MR. SIEGEL: Sorry, your Honor.

18 THE COURT: Did you have a page and line?

19 MR. SIEGEL: Yes, your Honor. Thank you. Page 202,  
20 line 23 through line 203.

21 THE COURT: These pages only have about 25 lines on  
22 them.

23 MR. SIEGEL: I'm sorry. I misspoke. Thank you, your  
24 Honor. Page 202, line 23, through page 203, line 4.

25 MS. KAPLAN: We don't see any inconsistency, your

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1 Honor.

2 THE COURT: Sustained.

3 BY MR. SIEGEL:

4 Q. Dr. Lebowitz, let's talk about your evaluation methods in  
5 this case, the ones that you relied upon in forming your  
6 opinion. You conducted an unstructured, open-ended inquiry; is  
7 that right?

8 A. Yes.

9 Q. And what that basically means is that you had a long  
10 conversation with Ms. Carroll and asked her largely open-ended  
11 questions?

12 A. Yes.

13 Q. And during that conversation you asked about circumstances  
14 in her life and how they affected her; right?

15 A. I did.

16 Q. And you did that to assess her symptoms and experiences,  
17 correct?

18 A. Yes; to understand who she was as a person and how what had  
19 happened to her what it had meant to her. All of the above,  
20 yes.

21 Q. And during that process you didn't use any objective  
22 psychological instruments or tests to corroborate what she told  
23 you; correct?

24 A. That is true.

25 Q. Now, on occasion you have used psychological instruments

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1 alongside open-ended inquiries in connection with lawsuits you  
2 have been involved in?

3 A. On occasion.

4 Q. And you are familiar with the Minnesota Multiphasic  
5 Personality Inventory, or MMPI, as it is called; right?

6 A. I am, but that is not an instrument I have relied on or  
7 used.

8 Q. Well, it is a formal assessment instrument used to assess  
9 whether someone is malingering; right?

10 A. It is used to assess a lot of things. It does have a  
11 malingering -- a scale that is relevant for malingering, yes.

12 Q. And there are, in fact, other texts other than the MMPI  
13 that are available to specifically assess malingering?

14 A. Yes.

15 Q. In this case you could have sought the aid of a  
16 neuropsychologist -- I think you said you don't do this  
17 yourself -- but you could have sought --

18 THE COURT: Let's try the question again, please.

19 MR. SIEGEL: Fine.

20 Q. In this case, Dr. Lebowitz, you could have sought the aid  
21 of a neuropsychologist to help you administer any of these  
22 tests for malingering; correct?

23 A. Theoretically.

24 Q. Well, in reality you could have made that recommendation if  
25 you wanted to; correct?

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Lebowitz - Cross

1 A. Sure.

2 Q. You didn't do that here, right?

3 A. That's right.

4 Q. So, for purposes of forming your opinion in this case, you  
5 essentially took Ms. Carroll's word for it; correct?

6 MS. KAPLAN: Objection.

7 THE COURT: Sustained.

8 MR. SIEGEL: I will rephrase it.

9 Q. Dr. Lebowitz, for purposes of forming your opinion in this  
10 case, you relied upon Ms. Carroll presumably giving you  
11 truthful and accurate information, correct?

12 A. Yes.

13 Q. And you did that without any objective measures to  
14 corroborate what she was telling you; right?

15 Withdrawn. I will rephrase it.

16 You did that without any objective tests or  
17 instruments to corroborate what she told you?

18 A. I did not give her any standardized psychological tests or  
19 paper and pencil screening devices; that is true.

20 Q. Let's look at some of the things that Ms. Carroll told you  
21 during the interview. Ms. Carroll told you she believed she  
22 lost her job because Donald Trump called her a liar; correct?

23 A. Yes.

24 Q. I think you said you were in court two days ago when  
25 Ms. Carroll testified in this courtroom on May 1st?

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Lebowitz - Cross

1 A. I can't remember that, I have to think about it. I was  
2 here the last day that she was on the stand for  
3 cross-examination. I wasn't here for direct.

4 Q. And during that cross-examination did you hear Ms. Carroll  
5 testify in this courtroom that her editor in chief at *Elle*,  
6 Nina Garcia, loathed her for publishing her story about Donald  
7 Trump in *New York* magazine?

8 A. I did hear her say -- I'm not sure if that's exactly what I  
9 heard but something like that.

10 Q. OK. Ms. Carroll never told you when you were interviewing  
11 her that her editor in chief loathed her for publishing her  
12 story in a competitor magazine, did she?

13 A. No.

14 Q. Do you recall writing in your report that Ms. Carroll lives  
15 with a higher level of chronic fearfulness than she did before  
16 Donald Trump's denunciation?

17 A. Yes. Yes.

18 Q. And as to whether Ms. Carroll felt safe walking down a  
19 street after Donald Trump said she lied, you concluded that,  
20 before it began to subside, Ms. Carroll simply felt frightened  
21 and overwhelmed and could not eat or sleep well. Is that  
22 right?

23 A. Yes, but I think you are conflating a few different things  
24 which I would like to clarify.

25 In the immediate aftermath --

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Lebowitz - Cross

1 Q. Dr. Lebowitz, I am sure you will have an opportunity to --

2 MS. KAPLAN: No. You just asked her the question.

3 She hasn't answered the question.

4 MR. SIEGEL: She answered my question.

5 MS. KAPLAN: She did not answer it.

6 MR. SIEGEL: I will repeat it then.

7 MS. KAPLAN: No. You don't get to repeat it.

8 MR. SIEGEL: Your Honor?

9 THE COURT: Ms. Kaplan, you don't get to argue --

10 MS. KAPLAN: Sorry, your Honor.

11 THE COURT: -- with opposing counsel.

12 Do you have something to say to me?

13 MS. KAPLAN: Yes, your Honor. I think she should be  
14 permitted to answer the question.

15 THE COURT: Mr. Siegel, why not?

16 MR. SIEGEL: It calls for yes, or no and I thought I  
17 got a response.

18 THE WITNESS: And I said that you were misrepresenting  
19 it.

20 THE COURT: Let's leave it right there. Move ahead,  
21 Mr. Siegel.

22 MR. SIEGEL: Thank you, your Honor.

23 BY MR. SIEGEL:

24 Q. I want to show you what's in evidence as Exhibit CJ, it's a  
25 text from E. Jean Carroll to another person on June 27, 2019.

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Lebowitz - Cross

1                   Eric? You can publish it, it is in evidence.

2                   Dr. Lebowitz, I want to direct your attention to the  
3 highlighted portion.

4 A. OK.

5 Q. That reads: Do not worry. I have been walking these great  
6 New York streets the last six days alone, and at night, all day  
7 long, and receive nothing but thanks and thumbs up. It is the  
8 exact opposite of concern.

9                   This was a text message from E. Jean Carroll. Do you  
10 see that?

11 A. I do.

12 MR. SIEGEL: Take it down, Eric.

13 THE COURT: Was there going to be a question or was  
14 that a vision test?

15 MR. SIEGEL: Actually, I thought put more words in but  
16 I will try to ask it quicker.

17 Q. The date of the text was June 24, 2019. Do you see that?

18 A. I do.

19 Q. And that is only three days after Donald Trump first said  
20 that E. Jean Carroll lied on June 21, 2019; is that right?

21 A. I will take your word for that.

22 Q. Well, you read Ms. Carroll's complaint in this case, right?

23 A. Yes.

24 Q. Now, did Ms. Carroll tell you about this text message or  
25 its content during your interview?

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Lebowitz - Cross

1 A. No.

2 Q. Now, on direct you testified extensively about intrusion  
3 and said that when you were questioning Ms. Carroll, she began  
4 to squirm and told you it was because she was supposedly  
5 re-experiencing Donald Trump's fingers in you.

6 Do you recall that testimony?

7 A. Yes.

8 Q. All right. You obviously --

9 MS. KAPLAN: Objection, your Honor. I think the  
10 question is misphrased. I don't think he meant to say "in  
11 you."

12 THE COURT: Well, it's objectionable as to form in any  
13 case at least.

14 MR. SIEGEL: All right.

15 BY MR. SIEGEL:

16 Q. Dr. Lebowitz, do you recall your testimony on direct a  
17 short while ago about this intrusive episode that you described  
18 Ms. Carroll experiencing during the interview where she began  
19 to squirm?

20 A. I do.

21 Q. During that you obviously couldn't see what was in her mind  
22 at that point, right?

23 A. Right.

24 Q. And you never used objective instruments to test if what  
25 she was telling you was a lie; right?

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Lebowitz - Cross

1 MS. KAPLAN: Objection, your Honor.

2 THE COURT: Sustained as to form.

3 Q. When Ms. Carroll, as you described it, squirmed, you didn't  
4 use any objective psychological instruments or tests to  
5 determine the cause of her squirming, did you?

6 MS. KAPLAN: Objection, your Honor.

7 THE COURT: What's the objection?

8 MS. KAPLAN: There is no foundation for this; if there  
9 are any objective psychological instruments or tests to  
10 determine squirming.

11 THE COURT: How about that?

12 MR. SIEGEL: She's the expert and can speak to that.

13 THE COURT: Is that what you are doing? Are you  
14 asking her whether there are objective tests, whether she  
15 considers them valid, why she used them, why she didn't use  
16 them, if there are any? Is that what you intend to do here?

17 MR. SIEGEL: I thought she already addressed, your  
18 Honor, that there are tests available to determine the  
19 lingering but I will explore it, your Honor, if need be.

20 THE COURT: Well, if that's what you want to do.

21 BY MR. SIEGEL:

22 Q. So, Dr. Lebowitz, earlier in your testimony you said that  
23 there is objective tests, psychological tests that can be used  
24 to determine whether someone is lying; right?

25 A. I agreed that there are some psychological tests that

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1 people sometimes use to try to assess whether somebody is  
2 telling the truth. Like all psychological tests there are  
3 problems, sometimes they're accurate and reliable, sometimes  
4 they're not.

5 Q. And in this instance you didn't use any of those  
6 psychological tests to determine if what Ms. Carroll was  
7 conveying to you, as she squirmed, was truthful; right?

8 A. There are no psychological tests to evaluate whether or not  
9 somebody is having an internal experience of a flashback. The  
10 so-called objective tests for assessing whether or not somebody  
11 is suffering from something like an intrusion or a flashback  
12 would be something like, for example, the  
13 clinician-administered PTSD scale, which is literally a series  
14 of questions in which you ask the person whether they're having  
15 certain kinds of symptoms. It is considered structured and  
16 reliable and valid because if two people give the same test,  
17 their answers tend to correlate, and because it lines up very  
18 specifically with the DSM -- the Diagnostic Manual's --  
19 description of post-traumatic stress. But even when using what  
20 is arguably the gold standard way to evaluate PTSD and to  
21 evaluate flashbacks and effects on schemas and all the rest, it  
22 is simply a series of questions. The point of the structure of  
23 the exam is to make sure you ask all the possible questions to  
24 assess whether or not somebody may or may not have symptoms  
25 that lead them to be diagnosed with a particular thing. But,

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1 it is still a series of questions that one person asks another.

2 Q. Thank you, Dr. Lebowitz.

3 So you didn't use any psychological test to determine  
4 whether or not Ms. Carroll's explanation to you for her  
5 squirming was truthful; right?

6 MS. KAPLAN: Objection.

7 THE COURT: Sustained.

8 Q. You just mentioned there is symptoms of PTSD?

9 A. I do.

10 Q. You agree that Ms. Carroll does not have PTSD; correct?

11 THE COURT: I think the answer was actually quite a  
12 bit more elaborate than your purported summary of it,  
13 counselor.

14 MR. SIEGEL: Then I will ask it this way.

15 Q. You had testified in the midst of that statement that there  
16 are tests available to assess PTSD; correct?

17 A. I did.

18 Q. OK.

19 Does Ms. Carroll have PTSD?

20 A. No. That's why I didn't give her that test.

21 Q. OK.

22 Now, during your interview, Ms. Carroll told you she  
23 has intrusive images that have been ongoing since the alleged  
24 rape; correct?

25 A. She did.

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Lebowitz - Cross

1 Q. Now I want to show you Defendant's Exhibit AA in evidence,  
2 it is Ms. Carroll's book, page 244, lines 22 through 23.

3 MR. SIEGEL: You can publish it.

4 MS. KAPLAN: No. We need to see it first.

5 MR. SIEGEL: I'm sorry. It is in evidence, but that's  
6 fine.

7 MS. KAPLAN: I am being told there is a redaction  
8 issue.

9 MR. SIEGEL: It is fine. This was already shown to  
10 Ms. Carroll. That's fine.

11 THE COURT: Mr. Siegel, let's both of you cut off the  
12 byplay. And that is addressed to Ms. Carroll, too. If  
13 somebody has something to say, say it to me and not just go at  
14 each other.

15 MS. KAPLAN: I apologize, your Honor. We wanted to  
16 see because apparently there are still some redaction issues.

17 THE COURT: Are there or are there not, Mr. Siegel?

18 MS. KAPLAN: No issue, your Honor.

19 MR. SIEGEL: Thank you.

20 THE COURT: No? All right.

21 BY MR. SIEGEL:

22 Q. Dr. Lebowitz, this is a portion of Ms. Carroll's book and I  
23 will just read it to you. It says: Indeed, before 2015, when  
24 the man began appearing in the papers and on TV daily, I rarely  
25 thought of it. When he forced himself on the notice of the

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Lebowitz - Cross

1 entire nation, I, like everyone else, tweeted jokes about him,  
2 complained to friends that America was going to hell in a  
3 handbasket and so on. I am fine. I can't explain it, but I  
4 never suffered.

5 Reading that you would agree that -- we can take that  
6 down -- saying she has been having these intrusive images since  
7 the event itself, and saying in her book "I rarely thought of  
8 it," are inconsistent in terms of content; is that correct?

9 A. No.

10 Q. I want to direct your attention to your deposition  
11 testimony, March 14, 2023, pages 136, lines 20 to 25. When  
12 everyone is ready.

13 THE COURT: You want lines 20 to 23?

14 MR. SIEGEL: 20 to 25, your Honor.

15 THE COURT: In other words --

16 MS. KAPLAN: No.

17 MR. SIEGEL: I promise I will get to that next portion  
18 immediately after.

19 THE COURT: Oh no, no, no. There is an objection.  
20 Ms. Kaplan is on her feet.

21 MS. KAPLAN: Yes, your Honor. We think it needs to go  
22 to page 137, line 8.

23 MR. SIEGEL: Happily, your Honor. Can I proceed?

24 THE COURT: Yes.

25 MR. SIEGEL: Thank you.

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Lebowitz - Cross

1 BY MR. SIEGEL:

2 Q. Dr. Lebowitz, I direct your attention to your deposition --

3 A. I can't see it, if that's what you want me to do.

4 Q. Sorry.

5 THE COURT: Mr. Siegel, you are going to have to get  
6 this together. This has been going on for several days.

7 MR. SIEGEL: The tech person is putting it on the  
8 screen now, your Honor. Or, to speed this along, I can just  
9 read it to her, if that's OK.

10 THE COURT: Whatever you want to do, Mr. Siegel.

11 MR. SIEGEL: Thank you very much, your Honor.

12 BY MR. SIEGEL:

13 Q. OK. Ah, there we are. So, Dr. Lebowitz, do you see here  
14 the question to you --

15 THE COURT: Just read it. I know she can see it. We  
16 all know she can see it.

17 MR. SIEGEL: I wanted to make sure it was on her  
18 monitor, your Honor, but fair enough.

19 THE COURT: I thought you were just going to read it  
20 because it is not on the monitor. I don't know what you are  
21 doing. You just told me you were going to read it.

22 MR. SIEGEL: I am, but it just came up on the screen  
23 after I heard that.

24 THE COURT: Either way. Just get with it.

25 BY MR. SIEGEL:

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1 Q. So, question to you:

2 "Q So there is no inconsistency for her saying that she's been  
3 having these ongoing intrusive images since the event herself  
4 and then her saying in her book I rarely thought of it?

5 "A They are -- they are inconsistent in terms of content.

6 They are consistent with her psychologically, you know, we

7 don't all say the same thing depending on our social

8 environment, right? We say something different in a more

9 intimate setting than we say in a more public setting. We

10 present ourselves differently in those circumstances. So, it

11 is consistent with that, even if the actual content doesn't

12 line up perfectly."

13 Dr. Lebowitz, was that truthful testimony?

14 A. It was absolutely truthful testimony and -- and I'm going

15 to have to -- you are going to just have to give me a moment.

16 OK?

17 When Ms. Carroll made clear during her testimony which  
18 I -- which is correct, is that there is a difference in terms  
19 of thinking and intrusions. What I am saying here, I'm just  
20 not parsing it that -- that clearly. So -- she is continuing  
21 to think of him but she is pushing it away very hard. What she  
22 is also doing in her book -- first of all, she is making a  
23 distinction between thinking and intrusions which she has done  
24 here in the court, and there is a distinction between her  
25 public persona and her private suffering. That is what is

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1 being revealed here.

2 Q. Dr. Lebowitz, would you agree with me now that those two  
3 statements are inconsistent in terms of content?

4 A. I would not agree with you that they are different in any  
5 way than is truthful or meaningful is what I am saying.

6 Q. In light of what you just read, it is your position that  
7 these two statements, that she has been having intrusive images  
8 since the event herself and in her book I rarely thought of it,  
9 are consistent with Ms. Carroll's psychology; is that right?

10 A. They are consistent with Ms. Carroll psychologically and  
11 they are also consistent with her testimony that she makes a  
12 distinction between thinking about things, i.e., choosing to  
13 think about something, and being inflicted with an intrusion.

14 It is all consistent with that.

15 Q. OK.

16 And what you mean by they're consistent with  
17 Ms. Carroll psychologically is that people may say something  
18 different in a more intimate setting than they say in a more  
19 public setting; is that correct?

20 A. Yes, and that they are particularly consistent with who she  
21 is since she is, more than average, resistant to being seen as  
22 somebody who has been hurt or is vulnerable or injured. So  
23 they're both consistent with the more general human impulse to  
24 say, *Yeah, I'm fine*, when they may not be, but it is more  
25 specific to her, which is she is more like that than most

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1 people.

2 Q. I want to show you Ms. Carroll's deposition testimony on  
3 October 14, 2022.

4 MR. SIEGEL: Your Honor, page 145, lines 10 through  
5 19.

6 Robbie?

7 MS. KAPLAN: Do you have a copy? We have got it.

8 MR. SIEGEL: Just let me know when you are ready.  
9 Robbie, is that OK?

10 MS. KAPLAN: Yes.

11 MR. SIEGEL: Thank you.

12 Eric, can you display it to the witness?

13 I will speed this along, your Honor.

14 Q. On October 14, 2022 Ms. Carroll testified, as follows:

15 "Q During the two decades that followed, how would you say the  
16 alleged attack impacted your life?

17 "A Well, four or five years ago I would have told you it had  
18 no effect, I'm as good as new. This is great, I'm fine. I  
19 rarely think of it. But I have come to understand that that  
20 rape changed my life, which is shocking for me to now  
21 understand."

22 Now, that was Ms. Carroll's statement in a sworn  
23 deposition, not her book. It is on the screen now before you.

24 A. Yes.

25 Q. And you would agree that a deposition is not the equivalent

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1 of a book, right?

2 MS. KAPLAN: Objection.

3 THE COURT: Sustained.

4 MR. SIEGEL: We can take that down.

5 Q. On direct you testified about avoidance, and you explained  
6 that avoiding things -- withdrawn -- that avoidances, avoiding  
7 things, people, and places help a person avoid reminders of  
8 trauma; is that right?

9 A. Yes; and also one can avoid internal experiences as well;  
10 thoughts, feelings.

11 Q. And you would agree that psychologically seeing certain  
12 things, people, and places connected to trauma can cause  
13 someone to think about that trauma; right?

14 A. Sometimes, of course.

15 Q. Now, as for your report, and as I think you testified  
16 today, you concluded that Ms. Carroll's harms are manifested  
17 and pronounced avoidance behaviors which reflect ongoing  
18 fearfulness related to the alleged assault; right?

19 A. Yes.

20 Q. In fact, based on what Ms. Carroll told you, you concluded  
21 that she's tried very hard to not think about the alleged  
22 Bergdorf Goodman incident as much as possible; right?

23 A. Yes.

24 Q. Now, Ms. Carroll told you that she doesn't typically keep  
25 things in her closet that she doesn't wear, right?

N535CAR2

Lebowitz - Cross

1 A. Correct.

2 Q. And she also told you that she has a small closet, right?

3 A. Yes.

4 Q. But you are aware that Ms. Carroll kept the dress she says  
5 she wore during the alleged incident for over 20 years; right?

6 A. I am. I discussed it earlier.

7 Q. Right. You testified on direct you think Ms. Carroll kept  
8 the dress because she had lost something she couldn't get back  
9 and held on to the dress almost as a way of holding on to hope.

10 Do you recall that testimony on direct?

11 A. Yes. I testified that there were likely more than one  
12 reason why the dress was still in her closet and that was my  
13 thought about what one of those reasons might be.

14 Q. Dr. Lebowitz, I think you said that you took  
15 contemporaneous notes, you were typing quickly as you spoke to  
16 Ms. Carroll?

17 A. Yes.

18 Q. And, in fact, Ms. Carroll didn't tell you that that was the  
19 reason she kept the dress, right?

20 A. No. That is my psychological assessment.

21 Q. Right.

22 A. That is not something that she said in that way.

23 Q. Right. The reason she told you she kept the dress is  
24 because it was expensive; right?

25 A. Yes.

N535CAR2

Lebowitz - Cross

1 Q. And as you sit here today, you don't have any independent  
2 knowledge as to whether or not she actually wore that dress  
3 over the years since the mid-1990s; do you?

4 MS. KAPLAN: Objection.

5 THE COURT: What is the relevance of that?

6 MR. SIEGEL: She is claiming that Ms. Carroll engaged  
7 in avoidance behaviors and our position is keeping the dress  
8 for 20 years she claims she was raped in isn't consistent with  
9 that.

10 THE COURT: Why don't you ask that question.

11 MR. SIEGEL: She is testifying, your Honor, as to her  
12 belief as to why Ms. Carroll kept the dress. I am just asking,  
13 based on that opinion, whether or not she has any independent  
14 knowledge as to whether or not Ms. Carroll wore that dress.  
15 Because I think that would affect her opinion.

16 THE COURT: OK. Let's ask her that.

17 MR. SIEGEL: Fine. Thank you very much, your Honor.

18 BY MR. SIEGEL:

19 Q. So, Dr. Lebowitz, do you have any independent knowledge as  
20 to whether or not Ms. Carroll actually wore that dress over the  
21 years since the mid-1990s?

22 A. Of course not.

23 Q. No.

24 Ms. Carroll told you she watched *The Apprentice* a few  
25 times, right?

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Lebowitz - Cross

1 A. She did.

2 Q. She told you she didn't watch it a lot; right?

3 A. That's correct.

4 Q. Are you aware that Ms. Carroll testified, at this trial,  
5 two days ago, on May 1, that she watched *The Apprentice* and was  
6 "a big sort of fan of the show"?

7 A. I am.

8 Q. Now, again, you took contemporaneous notes of Ms. Carroll's  
9 interview of you -- excuse me -- Ms. Carroll's interview by  
10 you?

11 MS. KAPLAN: Asked and answered, your Honor.

12 THE COURT: Sustained.

13 Q. When you spoke to Ms. Carroll, did she ever tell you that  
14 she was "a big sort of fan of the show"?

15 A. Yes, she did, actually.

16 Q. She did. And it is your testimony that she told you that  
17 even though, according to you, she only told you she watched it  
18 a few times?

19 A. She told me that she thought it had amazing production  
20 values, that there was a, like, kind of a brand-new idea, and  
21 that she appreciated the artistry, if you will, of the show  
22 from a professional point of view. She told me that.

23 Q. Right. Did she tell you that she posted on social media  
24 that she was a massive fan of the show?

25 A. No, that is not inconsistent. She is exuberant in most of

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Lebowitz - Cross

1 her statements.

2 Q. But she told you she didn't watch the show a lot, right?

3 MS. KAPLAN: Objection, your Honor. Asked and  
4 answered.

5 THE COURT: Sustained.

6 Q. Now, in addition to not diagnosing Ms. Carroll with  
7 post-traumatic stress disorder, you also didn't diagnose her as  
8 having anxiety; correct?

9 THE COURT: Rephrase the question, counselor. Stop  
10 making your argument as part of the question.

11 MR. SIEGEL: OK.

12 Q. Did you diagnose Ms. Carroll with post-traumatic stress  
13 disorder?

14 A. I did not.

15 Q. Did you diagnose her as having anxiety?

16 A. I did not.

17 Q. Did you diagnose her with major depression?

18 A. I did not.

19 Q. There is absolutely no psychological, psychiatric, or  
20 therapeutic diagnosis that Ms. Carroll suffers from which may  
21 have been caused by her alleged Bergdorf Goodman incident; is  
22 that right?

23 MS. KAPLAN: Argumentative, your Honor.

24 THE COURT: I will allow it.

25 A. If I understand your question correctly, you are asking me

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Lebowitz - Cross

1 does Ms. Carroll meet diagnostic criteria for a major mental  
2 illness. The answer to that is no. She does have symptoms  
3 that fit within the rubric of post-traumatic stress disorder  
4 but she does not have enough to meet the full criteria for what  
5 is essentially a disabling and a chronic mental illness.

6 Q. OK, so my question was: There is absolutely no  
7 psychological psychiatric or therapeutic diagnosis that  
8 Ms. Carroll suffers from which may have been caused by her  
9 alleged Bergdorf Goodman incident; is that right?

10 MS. KAPLAN: Asked and answered and argumentative,  
11 your Honor.

12 THE COURT: Sustained.

13 Q. A separate question, Dr. Lebowitz. Would you agree that  
14 there is no clinical diagnosis to corroborate Ms. Carroll's  
15 allegation in this case?

16 MS. KAPLAN: Objection, your Honor.

17 THE COURT: Sustained, at least as to form.

18 MR. SIEGEL: All right.

19 Q. Dr. Lebowitz, is there a clinical diagnosis to support  
20 Ms. Carroll's allegation in this case?

21 MS. KAPLAN: Objection, your Honor.

22 THE COURT: Rephrase.

23 MR. SIEGEL: I will do it one more time.

24 THE COURT: The problem is the word "clinical."

25 MR. SIEGEL: OK. Fair enough. Thank you.

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Lebowitz - Cross

1 Q. Dr. Lebowitz, there is no psychological, psychiatric or  
2 therapeutic diagnosis to support Ms. Carroll's allegation in  
3 this case; is that correct?

4 MS. KAPLAN: Your Honor, may we have a side bar?

5 THE COURT: OK.

6 (Continued next page)

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Lebowitz - Cross

1 (At side bar)

2 MS. KAPLAN: So, the issue, your Honor, is I want to  
3 know what he is asking. Is he asking is there a diagnosis that  
4 supports her damages from something? Or is he asking is her  
5 diagnosis, of course, that it actually happened? I'm not aware  
6 there is any diagnosis that we have already talked about that  
7 would support the truth of whether something happened or not.

8 That's the problem I am having with the question.

9 THE COURT: Well, and there is the further problem and  
10 that is I don't know what a therapeutic diagnosis could  
11 possibly be.

12 MR. SIEGEL: I can remove that word, your Honor.

13 THE COURT: I am sure you could.

14 MR. SIEGEL: Tell me if this would be sufficient:  
15 There is no psychological or psychiatric diagnosis to  
16 corroborate Ms. Carroll's allegation in this case.

17 MS. KAPLAN: What allegation?

18 THE COURT: Pardon?

19 MS. KAPLAN: What allegation? The fact that the  
20 assault happened? Or the fact that she has damage from the  
21 assault?

22 MR. TACOPINA: The Bergdorf Goodman incident.

23 MR. SIEGEL: Yes.

24 THE COURT: I'm sorry?

25 MR. TACOPINA: Sorry. I was just answering.

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Lebowitz - Cross

1 MR. SIEGEL: OK. Your Honor, I will try it again.

2 So, there is no psychological or psychiatric diagnosis  
3 to corroborate Ms. Carroll's claim that she was raped at  
4 Bergdorf Goodman.

5 MS. KAPLAN: I don't think there is foundation for  
6 that. I think he hasn't established there would be a diagnosis  
7 to corroborate whether something happened or not.

8 THE COURT: Why isn't that right, Mr. Siegel?

9 MR. SIEGEL: Sorry, your Honor.

10 THE COURT: How could there be a psychological or  
11 psychiatric diagnosis that would corroborate what happened at  
12 Bergdorf Goodman?

13 MR. SIEGEL: Because she is testifying that assuming  
14 this occurred -- withdrawn.

15 If someone is violently raped in any location, it is  
16 conceivable they may actually suffer from some type of mental  
17 disorder as a result. That mental disorder would, therefore,  
18 corroborate their claim of rape.

19 THE COURT: Maybe. Maybe not.

20 MR. SIEGEL: That's true. Maybe. Maybe not.

21 THE COURT: But she has already testified that there  
22 is no major psychologic disorder under the DSM-whatever-number.

23 MR. SIEGEL: Yes.

24 MR. TACOPINA: Let me ask this question. The judge  
25 had a problem with the word "clinical." I'm sorry. In other

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Lebowitz - Cross

1 words, there is no diagnosis, take out "clinical" to  
2 corroborate Ms. Carroll's allegation in this case. I think --  
3 should I not be part of this? I don't think I should be part  
4 of this.

5 THE COURT: That's number one, but we will pass over  
6 that.

7 MR. TACOPINA: All right. Thank you.

8 THE COURT: Because you are smiling. And so am I.

9 MR. TACOPINA: And you are too.

10 THE COURT: The record will reflect.

11 No. You are trying -- there this wonderful old Mainer  
12 joke. A guy walks up to the general store and was obviously  
13 lost and he asked these two guys sitting on the stoop, how do  
14 you get to Millinocket? Isn't this the way the joke goes? And  
15 there is a lot of talk with a heavy Maine accent, and after 15  
16 minutes one of the guys on the stoop says: *You can't get to*  
17 *Millinocket from here.*

18 I don't think you can get to where you want to go from  
19 here.

20 MR. SIEGEL: Why don't you ask that last question?

21 MR. TACOPINA: Just move on. We will start here.

22 MS. KAPLAN: One more issue, your Honor, and I didn't  
23 want to ask for a side bar, but we have an issue now. He asked  
24 her whether she took -- she gave her the MMPI.

25 THE COURT: Yes.

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Lebowitz - Cross

1 MS. KAPLAN: Dr. Nace didn't give her the MMPI.

2 THE COURT: So?

3 MS. KAPLAN: I don't know whether he is testifying or  
4 not. That's the problem. I would ordinarily say: *Isn't it*  
5 *true that Mr. Trump's expert also didn't give her that test?*  
6 But I'm trying to be careful of the fact that they may not even  
7 be putting him in.

8 MR. TACOPINA: Which you will know before you get up  
9 for redirect.

10 THE COURT: You mean this cross is going to continue  
11 that long?

12 MR. TACOPINA: Well, it is only 15 more minutes. But  
13 you won't be done with your redirect.

14 THE COURT: Look. Let's just try to move ahead.

15 MR. SIEGEL: I will, your Honor.

16 MR. TACOPINA: That problem will be resolved, Robbie.

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Lebowitz - Cross

1 (In open court)

2 THE COURT: Next question, please.

3 MR. SIEGEL: Thank you very much.

4 BY MR. SIEGEL:

5 Q. Dr. Lebowitz, based on what Ms. Carroll told you, you  
6 concluded that the alleged incident at Bergdorf Goodman is the  
7 cause of her inability to engage in romantic and sexual  
8 partners; correct?

9 A. I did.

10 Q. But you would agree that it is possible something else  
11 other than the alleged Bergdorf Goodman incident may have  
12 caused Ms. Carroll's supposed inability to engage with  
13 potential romantic partners, correct?

14 A. In psychology it is -- it is always possible. We can only  
15 ever say that things are within a certain degree of certainty.  
16 We can't even say the sun is definitely going to rise tomorrow  
17 as a psychologist so of course there is always a possibility.

18 Q. Are you aware that Ms. Carroll appeared on a podcast  
19 entitled *UnStyled* in August of 2019 in which she said: Well,  
20 after the episode in Bergdorf's I never had sex again, but I  
21 think it wasn't because of him. I think it was just that I  
22 didn't have the luck to meet that person that would cause me to  
23 be desirous again.

24 A. If I am remembering this material correctly, I think she  
25 also at some point acknowledged that one creates one's own luck

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Lebowitz - Cross

1 and her avoiding behavior precluded her from creating the luck  
2 that she needed to meet somebody and I think that is what she  
3 is saying there.

4 Q. And you are drawing that conclusion based on an assumption  
5 that what she told you was correct; true?

6 A. No, I am basing that on my memory, which I hope is  
7 accurate, of what she actually said in that podcast or some of  
8 her materials, that one creates one's own luck in creating  
9 context for that.

10 Q. I understand but I'm not -- in forming your opinion as to  
11 her psychological condition on that issue you're relying upon  
12 the accuracy of what Ms. Carroll told you, correct?

13 A. I am a little confused by your question. I'm sorry.

14 Q. OK. Let me reframe it.

15 Everything you are testifying to here today, including  
16 what you just said, is based on the accuracy of what  
17 Ms. Carroll told you; correct?

18 A. It is actually based on two things. It is based on what  
19 she told me viewed through the lens of what I understand  
20 research and clinical work about trauma has taught us over the  
21 last 40 years, and also my clinical experience. So, when  
22 somebody tells me something I don't receive it like a video  
23 recording, I filter it through the lens of what I know about  
24 people and behavior and trauma in general. So there is really  
25 two forces at work here, right? One is what is she telling me;

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Lebowitz - Cross

1 and then, secondarily, does this make sense, is this consistent  
2 with what we know more generally about how people work and how  
3 trauma affects people. So, there is two factors at work here.

4 Q. Did you hear the portion of the podcast where she said: I  
5 think it wasn't because of him?

6 A. I didn't hear the podcast but I think I read a transcript  
7 of it.

8 Q. You are aware that Ms. Carroll has claimed she experienced  
9 sexual assaults before this alleged Bergdorf Goodman incident;  
10 is that right?

11 A. I am.

12 Q. But you don't attribute the symptoms you found to any of  
13 those past incidents?

14 A. No.

15 Q. You are aware that Ms. Carroll testified in her 2022  
16 deposition that she was sexually abused by a girl scout leader  
17 when she was a child?

18 A. I am.

19 Q. And according to you there is no evidence that that  
20 experience affected her functioning?

21 A. There is no evidence it affected her functioning. I think  
22 that it -- she thought about it and it was a painful event in  
23 her life. We all have pain, though, that doesn't necessarily  
24 affect our functioning. There is no evidence it affected her  
25 functioning as far as I could discern.

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Lebowitz - Cross

1 Q. In preparation for your evaluation and testimony you read  
2 her January 31st, 2023 deposition; correct?

3 A. No. I think the timing of that doesn't work.

4 Q. OK. Have you ever heard -- withdrawn.

5 Are you aware that Ms. Carroll testified at a  
6 deposition on January 31st, this year, that she never claimed  
7 to be traumatized by any of the --

8 THE COURT: Sustained. Look. There is a rule about  
9 how you are to do this and that isn't it.

10 Q. Dr. Lebowitz, did you read Ms. Carroll's January 31st, 2023  
11 deposition?

12 A. I think so but I am not positive. I would have to look at  
13 it. I'm not sure.

14 MR. SIEGEL: OK. Can you show it to her?

15 Your Honor, may I approach?

16 THE COURT: For what purpose?

17 MR. SIEGEL: To show her the deposition to refresh her  
18 recollection.

19 THE COURT: As to whether she has read it? Fine.

20 MS. KAPLAN: Can you tell us what line -- your Honor,  
21 can you ask him to tell us what lines?

22 THE COURT: I'm sorry. I couldn't understand you,  
23 Ms. Kaplan.

24 MS. KAPLAN: We are asking about what part of the  
25 deposition he --

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Lebowitz - Cross

1           THE COURT: At the moment we are trying to find out if  
2 the witness remembers ever having read it.

3           MS. KAPLAN: Sorry, your Honor.

4           THE WITNESS: I think I have seen it.

5           THE COURT: Have you read it?

6           THE WITNESS: I think so. I couldn't swear to it, but  
7 I think so.

8           THE COURT: A little louder so the jury can hear.

9           THE WITNESS: I think I have read it.

10          BY MR. SIEGEL:

11          Q. OK. Do you recall --

12          THE COURT: This is not a memory quiz. There was a  
13 reporter.

14          MR. SIEGEL: OK.

15          Q. I want to direct your attention to page 65, lines 3 through  
16 10.

17          (Counsel conferring)

18          THE WITNESS: Yes.

19          THE COURT: I appreciate the conference but is there  
20 going to be a question?

21          MR. SIEGEL: Yes.

22          MR. TACOPINA: They're working on it.

23          MR. SIEGEL: We will resolve this amongst ourselves,  
24 your Honor.

25          (Counsel conferring)

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Lebowitz - Cross

1                 THE COURT: Folks, *tempus fugit*. I apologize for the  
2 Latin. Time is flying.

3                 MR. SIEGEL: I think I can move this along.

4 Q. I just want to direct your attention to page 65 -- you can  
5 read it to yourself -- lines 3 through 10 and I will ask you  
6 one question after you do.

7 A. OK.

8                 MS. KAPLAN: Your Honor, can we have a side bar,  
9 please?

10                MR. SIEGEL: Robbie --

11                THE COURT: There is not even a question yet. Do we  
12 need a side bar?

13                MR. SIEGEL: I don't think so, your Honor.

14                MS. KAPLAN: OK.

15 BY MR. SIEGEL:

16 Q. Dr. Lebowitz, Ms. Carroll said she was traumatized by Cam;  
17 is that correct?

18 A. Yes.

19 Q. Now, do you recall documenting in your notes, that you took  
20 contemporaneously when interviewing Ms. Carroll, that she can  
21 experience back pain if she is just thinking about Cam?

22 A. Yes.

23 Q. So Ms. Carroll told you she experiences physical  
24 manifestation of pain just from thinking about Cam; right?

25 A. Yes.

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Lebowitz - Cross

1 Q. Do you think that is an important fact when evaluating  
2 Ms. Carroll's emotional condition?

3 A. It is certainly a fact that I considered when evaluating  
4 the effect of Cam on Ms. Carroll; yes.

5 Q. You didn't include that in your report though, correct?

6 A. That's true.

7 Q. Now, you testified about -- coming to the end here -- some  
8 of the behavior Ms. Carroll supposedly exhibited during this  
9 alleged rape such as not screaming; right?

10 A. Yes.

11 Q. And it is your opinion that such behavior, not screaming,  
12 would be consistent with a rape, correct?

13 A. Absolutely.

14 Q. But you would agree that screaming is also consistent with  
15 a rape, right?

16 A. I think screaming, under those circumstances, is an  
17 excellent response to being sexually assaulted. I also happen  
18 to know, both from research and from 40 years of clinical work,  
19 that it is one of the least likely things that actually occur.

20 Q. But you agree with me that screaming would be consistent  
21 with a rape, correct?

22 A. Sure. Some people scream. That's a good idea.

23 Q. Dr. Lebowitz, when you were deposed on March 14 of this  
24 year, you couldn't think of any reactions by a person claiming  
25 rape that would not be consistent with that claim; correct?

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Lebowitz - Cross

1           THE COURT: I'm sorry?

2           THE WITNESS: There is a lot of negatives in that  
3 question.

4           MS. KAPLAN: Object to the form.

5           THE COURT: Rephrase it.

6 BY MR. SIEGEL:

7 Q. You testified at your deposition in this case on March 14,  
8 2023; correct?

9 A. Yes. I will take your word for that, yes.

10 Q. And you were asked whether you could think of any reactions  
11 by a person claiming rape that would not be consistent with  
12 that claim, right? That would be inconsistent with a claim of  
13 rape?

14 MS. KAPLAN: Your Honor, if we can get a page number,  
15 please?

16 MR. SIEGEL: Sure.

17 A. I don't remember the context of that exchange and I would  
18 have to have it in context before I can answer it because I  
19 don't remember that specific sentence from my deposition.

20 Q. Sure.

21           Page 154, Robbie, line 20, through 155, line 2.

22           MS. KAPLAN: OK, we have the context.

23 Q. Dr. Lebowitz --

24 THE COURT: There is an objection on the record. Has  
25 it been addressed?

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Lebowitz - Cross

1 MS. KAPLAN: We lost the question on our screen. If  
2 the court reporter can read it back?

3 THE COURT: I don't want it read back. Get the  
4 transcript. Well, indeed it is on the screen.

5 THE WITNESS: I see the question but I actually need  
6 the context for it.

7 THE COURT: Doctor, hold it for a minute.

8 THE WITNESS: OK.

9 THE COURT: Is the objection being pressed or not?

10 MS. KAPLAN: No. We withdraw the objection, your  
11 Honor.

12 THE COURT: OK. Go ahead.

13 MR. SIEGEL: Thank you.

14 BY MR. SIEGEL:

15 Q. I direct your attention to line 20 through -- what is on  
16 your screen, line 20 of page 154, to line 2 on page 155?

17 A. I don't have it on my screen.

18 THE COURT: Line 2 is not on her screen.

19 MS. KAPLAN: And that, your Honor, we do think she  
20 needs more context.

21 MR. SIEGEL: We will put up the whole thing.

22 THE COURT: Is that an objection or not?

23 MS. KAPLAN: It is an objection, your Honor.

24 THE COURT: And what other context are we talking  
25 about?

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Lebowitz - Cross

1 MS. KAPLAN: So, she goes on to answer the question.

2 THE COURT: Could you just give me the page and line  
3 for context?

4 MS. KAPLAN: All the way to 156, line 7.

5 MR. SIEGEL: Your Honor, that's not responsive and it  
6 doesn't put it in context.

7 THE COURT: I'll be the judge of that. Let me read  
8 it. I agree with Mr. Siegel.

9 What is your question, Mr. Siegel?

10 MR. SIEGEL: Thank you, your Honor.

11 BY MR. SIEGEL:

12 Q. Dr. Lebowitz, on March 14, 2023, you were asked this  
13 question and gave this answer:

14 "Q Are there any reactions to a rape that are not consistent  
15 with the victim actually being raped?

16 "A There may be. I can't call any to mind at this moment, but  
17 there may be."

18 Was that truthful testimony? Oh, I'm sorry --

19 A. Yes.

20 Q. OK. Now, you said that all of Ms. Carroll's behavior and  
21 feelings as she conveyed them to you are consistent with being  
22 raped; correct?

23 A. They were consistent with who she is and with being raped.  
24 There was nothing inconsistent.

25 Q. OK. But if what she told you is false, then all of her

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Lebowitz - Cross

1 alleged behavior and feelings that she conveyed to you would  
2 have to be inconsistent with her having been raped; is that  
3 correct?

4 MS. KAPLAN: Objection to form, your Honor.

5 A. I think what is getting lost here --

6 THE COURT: Wait. There is an objection.

7 THE WITNESS: Sorry.

8 THE COURT: The objection is sustained.

9 Q. Dr. Lebowitz, you are not offering an opinion in this case  
10 on whether Ms. Carroll was raped, right?

11 A. I am not.

12 Q. And I think you said you have no independent knowledge of  
13 whether that happened or not?

14 A. That is correct.

15 MR. SIEGEL: Thank you. I have nothing further.

16 THE COURT: OK. Thank you.

17 Will there be redirect?

18 MS. KAPLAN: There will, your Honor.

19 THE COURT: OK. 2:00, folks.

20 (Luncheon recess; continued on next page)

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## 1 A F T E R N O O N S E S S I O N

2 2:00 p.m.

3 (Jury not present)

4 THE COURT: Where are we on schedule?

5 MS. KAPLAN: Your Honor, so we have a report to make.

6 Dr. Nace will not be testifying, and then in terms of giving  
7 you -- sorry --

8 THE COURT: Go ahead.

9 MS. KAPLAN: In terms of the agenda, today we will  
10 finish Dr. Lebowitz, we will put on E. Jean Carroll's sister,  
11 we will put on Natasha Stoynoff, and then, in the remaining  
12 time—if there is remaining time—we will start the Trump  
13 deposition designations.14 I think we resolved -- we have been talking. I think  
15 we may have resolved any remaining objections there, which  
16 would be good, and then tomorrow will be Carol Martin, Ashlee  
17 Humphreys, Robbie Myers and, depending how we go today, that  
18 may not even take up the whole day tomorrow.

19 THE COURT: Okay. Thank you.

20 MS. KAPLAN: If that's helpful.

21 THE COURT: Very helpful. Thank you.

22 And given the conclusion on Dr. Nace --

23 MS. KAPLAN: I will waive the issue, your Honor. I'm  
24 not going to ask any questions.

25 THE COURT: You are waiving redirect?

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1 MS. KAPLAN: No, not redirect. The question we talked  
2 at sidebar I won't ask.

3 THE COURT: Okay.

4 MR. TACOPINA: Your Honor, just so you understand --  
5 I'm sorry.

6 THE COURT: And then we are done, right, done defense  
7 case?

8 MR. TACOPINA: Correct.

9 THE COURT: Okay.

10 MR. TACOPINA: Your Honor, there is an issue that Mike  
11 and I were discussing. I just want to raise it. As far as I  
12 understand, as far as Dr. Nace is concerned, it became an  
13 impossibility for him to be able to go tomorrow, so -- for  
14 various reasons that we have discussed in the back. So we are  
15 not -- we are just going to move forward.

16 THE COURT: Is it a scheduling issue or ultimate  
17 health issue?

18 MR. TACOPINA: Health issue.

19 THE COURT: Okay. Because depending on what the facts  
20 are—and we don't have to get into them—I could have had some  
21 flexibility if I needed it.

22 MR. TACOPINA: Yeah, your Honor, practically speaking,  
23 I don't think that would work out. I appreciate what you just  
24 said, by the way. I appreciate that a lot. But I just don't  
25 think it's, practically speaking, going to be useful to do

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1 that.

2 THE COURT: Okay.

3 MR. TACOPINA: So thank you, though.

4 THE COURT: All right.

5 MR. TACOPINA: Just one issue real quick, your Honor.

6 During the testimony of Ms. Stoynoff, the plaintiff plans on  
7 introducing the Billy -- what should we call it? Billy Bush  
8 tape? Mike?

9 MR. FERRARA: Yes.

10 MR. TACOPINA: The Billy Bush tape, let's call it  
11 that.

12 THE COURT: You can call it whatever you want.

13 MR. TACOPINA: What would you like to call it, your  
14 Honor?

15 THE COURT: We all know what you are talking about.

16 MR. TACOPINA: Anyway, so I would object to them  
17 putting it in through Ms. Stoynoff, because obviously it is  
18 subject to connection, authentication, but they are going to  
19 play it later today during the deposition transcript --  
20 deposition -- video depositions that have been designated  
21 for --

22 THE COURT: So therefore, if I understand you  
23 correctly, it's going to come in today.

24 MR. TACOPINA: It's going to come in today later, but  
25 I don't think it should be played twice. It's not -- obviously

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1 it's not authenticated at this point. It would have to only  
2 come in subject to connection. I think he could ask about it,  
3 but playing it twice in two hours I think is --

4 THE COURT: That's a separate question, but you don't  
5 seriously contend that it isn't authentic, right?

6 MR. TACOPINA: Oh, no, not seriously.

7 THE COURT: All right. I consider only serious  
8 objections.

9 MR. TACOPINA: Right.

10 THE COURT: Right? There is no issue as to  
11 authenticity, right?

12 MR. TACOPINA: Yes, right.

13 THE COURT: Okay. All right. I understand your other  
14 point. We will deal with it if it becomes necessary.

15 MR. TACOPINA: Thank you, your Honor.

16 (Continued on next page)

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Lebowitz - Redirect

1 (Jury present)

2 THE COURT: Good afternoon. Members of the jury, a  
3 little scheduling progress report.

4 Based on what the lawyers have told me thus far—and  
5 bearing in mind that I am not in the insurance-writing  
6 business, things change in cases—I think you can reasonably  
7 expect to get the case early next week.

8 Okay. Dr. Lebowitz, you are still under oath.

9 Ms. Kaplan, any redirect?

10 MS. KAPLAN: Yes, your Honor.

11 REDIRECT EXAMINATION

12 BY MS. KAPLAN:

13 Q. Dr. Lebowitz, during your cross-examination by Mr. Seigel,  
14 there were a series of questions, and I'm going to try to  
15 refresh you. You said you wanted to clarify something, so I'm  
16 going to give you that opportunity.

17 Mr. Seigel asked you this question: Do you recall  
18 writing in your report that Ms. Carroll lives with a higher  
19 level of chronic fearfulness than she did before Donald Trump's  
20 denunciation? You answered: Yes, yes. And then he asked you,  
21 as to whether Ms. Carroll felt safe walking down a street after  
22 Donald Trump said she lied, you concluded that it began to  
23 subside -- you concluded that it began to subside. Ms. Carroll  
24 simply felt frightened and overwhelmed and could not eat or  
25 sleep well, is that right? And you said, yes, but I think you

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1 are conflating a few different things which I would like to  
2 clarify.

3 Do you recall that testimony?

4 A. I do.

5 Q. Would you please clarify -- let the jury know what you  
6 wanted to clarify.

7 A. Sure. Right after Mr. Trump denounced Ms. Carroll, she had  
8 a period of time in which she felt really terrified. She was  
9 having trouble eating, she was having trouble sleeping. I  
10 think she lost five pounds in a very short period of time. It  
11 was a short period of time where she felt really inundated with  
12 hateful e-mails and she was fearful. That did subside. And in  
13 general I don't think Ms. Carroll has ever been fearful on the  
14 streets of New York. New York is a place that she feels safe  
15 and feels actually supported by.

16 Where the fear has been relevant and enduring is alone  
17 in her home, in her cabin, where she sleeps with a loaded gun  
18 to this day because she was afraid that Mr. Trump's  
19 denunciation of her and his invitation for people who knew  
20 something about her to come forward might invite people to seek  
21 her out and harm her. And that fear, you know, she doesn't  
22 experience it, you know, as a kind of daily throb of fear  
23 because she has a loaded gun, but she did learn how to shoot  
24 effectively and she does continue to sleep with a loaded gun by  
25 her bed, which suggests to me the presence of some ongoing

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1       fearfulness.

2       Q. Dr. Lebowitz, do you recall that Mr. Seigel asked you a  
3       number of questions about psychological tests or instruments?

4       A. I do.

5       Q. And just to set the groundwork there, could you explain to  
6       the jury what is a psychological instrument or the  
7       psychological instruments you were talking about, what do they  
8       look like, how are they administered? That was very compound.

9       A. That's okay.

10           THE COURT: Yes, it was. Let's try again.

11           MS. KAPLAN: Yeah.

12       Q. Can you explain to the jury how a psychological instrument  
13       like that is administered?

14           THE COURT: Could we maybe even let's find out what it  
15       is?

16           MS. KAPLAN: Withdrawn.

17       Q. Could you please tell us what a psychological instrument  
18       is, Dr. Lebowitz?

19       A. Well, there are lots of different kinds, first of all. The  
20       kinds that I was being asked about are -- Mr. Seigel mentioned  
21       the MMPI, and he mentioned -- referred to some screening  
22       instruments. So there are a lot of tests where it is  
23       basically -- let's start with the first one. There are these  
24       things called paper-and-pencil tests. You have probably seen  
25       them in your doctor's office, where you sit down and you get

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1 like nine questions that are basically finding out, have you  
2 been depressed, have you been anxious, how much are you  
3 drinking? So they are very straightforward. They are usually  
4 yes/no answers, or maybe you have the Likert scale, where you  
5 can answer like 1 to 5 about how much you agree with the  
6 statement. But they are very straightforward. They ask you  
7 are you having trouble sleeping? Are you sad most of the time?  
8 They are questions like that. They are -- I'm not really sure  
9 why they are called objective, because they rely entirely on  
10 the individual's self-report, and the truth is that it is a lot  
11 easier to present yourself in a way that you want to present  
12 yourself when you are being asked a yes/no question on a piece  
13 of paper. It is much harder to present yourself in a certain  
14 kind of way in the course of a long conversation. But aside  
15 from that, that's -- those are one kind of test, the  
16 paper-and-pencil test.

17 The MMPI, which he referred to, is a more complicated  
18 test where you are asked lots and lots and lots of questions,  
19 550 questions, actually, and they are all true/false. So do  
20 you read car mechanics magazines? I have headaches often. I  
21 am sad most of the time. Those kinds of questions like that.  
22 You either say it is true about you or it is false about you.

23 There is the idea that people with certain personality  
24 traits will tend to answer questions in a similar way. So you  
25 can get like a profile of somebody's personality and that can

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1 also include symptom measures and indications of psychological  
2 disorder like psychosis or character disorder, antisocial  
3 personality, and one of the scales on that test, which is what  
4 I was asked about today, it's called the F scale, but it's  
5 basically -- there are a couple of the subscales which try to  
6 get at whether or not people are being truthful. How they try  
7 to get at it is that they assume that if you endorse lots and  
8 lots and lots of symptoms, you might be faking bad. Of course  
9 the problem with that is sometimes people have lots and lots of  
10 symptoms, but at any rate that would never be a problem for  
11 Ms. Carroll.

12 And there are some other subscales on there. I don't  
13 use the test I'm not very familiar with it. But there are some  
14 other ways that they try to see whether or not people are being  
15 consistent and so they are most likely to be truthful.

16 The thing about all these tests, though, that is  
17 important to understand is they are basically trying to figure  
18 out do you look more like one category of people or more like  
19 another category of people? And they are entirely dependent on  
20 your ability to both understand the question accurately and  
21 your willingness to answer it truthfully.

22 But you get a number when you are done, and sometimes  
23 people feel that numbers are more objective than descriptions,  
24 and I think that might be -- I think that may be one of the  
25 reasons why they are considered objective.

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1           The other reason is that there is the idea that if you  
2 give the same test to the same person twice, they will probably  
3 answer it in the same way, so there is the idea that that makes  
4 it a reliable test.

5           And all of these tests are validated against, for  
6 example, a clinical interview. So if I give you a test for  
7 depression and you get a number on there that is -- looks like  
8 you are depressed, we believe that it is accurate because when  
9 they were developing the test, they would always pair that  
10 finding with an actual interview. But in general, people have  
11 more faith in the accuracy and the validity of an in-depth  
12 interview than they ever do on a screening, on a screening  
13 test.

14           MR. SEIGEL: Your Honor, objection to what people in  
15 general have more faith in.

16           THE COURT: Explain that answer, Doctor, so that I can  
17 make a ruling.

18           THE WITNESS: Sure. When tests are being developed,  
19 you have to figure out whether or not they are valid, which  
20 just means is this test assessing the thing it purports to be  
21 assessing. So if you are looking at a test like the Beck  
22 Depression Inventory, which is like 9 or 20 -- a series of  
23 questions about whether or not you are depressed, the way they  
24 figured out that it was a pretty good paper-and-pencil measure  
25 for depression is they gathered a cohort of people, some of

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1 whom were depressed and some who weren't. The people who were  
2 depressed were assessed using a clinical interview. They were  
3 then given a test. The idea being that if a clinician thought  
4 you were depressed and you came up depressed on this test, then  
5 the test is a pretty good indication of being depressed. But  
6 the gold standard is typically an in-depth clinical interview.

7 THE COURT: I will let the answer stand, but you can  
8 recross on it if you wish.

9 BY MS. KAPLAN:

10 Q. I take it from what you just said, Dr. Lebowitz, you tend  
11 not to use these kinds of tests very often?

12 A. I don't use them very often. I use them on occasion, but  
13 not very often.

14 Q. And in this case, did you reach a conclusion as to whether  
15 tests like that would have been helpful or not?

16 A. I did.

17 Q. And what was the conclusion you reached?

18 A. I didn't feel like they were going to add any valuable  
19 information in this situation.

20 Q. And can you explain why, Doctor?

21 A. Sure. I have assessed for trauma and PTSD so many times  
22 that I actually know what the questions would be. And it was  
23 my assessment that although Ms. Carroll had some of the  
24 symptoms in pretty severe form, she didn't have enough symptoms  
25 in enough category to meet criteria for a full diagnosis of

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1 PTSD. On the basis of my interview, I also didn't think she  
2 had a major depressive disorder, a major anxiety disorder, or  
3 any other form of significant mental illness. So there was no  
4 reason to do a test. It would have just told me what I already  
5 knew.

6 Q. And during your examination of Ms. Carroll, I take it you  
7 asked her a lot of questions?

8 A. I did.

9 Q. And is there an overlap, Doctor, between the questions you  
10 asked her and the kinds of questions you would find on the  
11 tests that you have been talking about?

12 A. Yeah. The way I structure an interview is the first part  
13 of it, and that can be quite a lengthy part, the questions are  
14 very open-ended. I just want someone to tell me about their  
15 life and their experiences in their own words. If I hear  
16 things that make me think there is more information that needs  
17 to be gotten on that particular issue, then I may ask some more  
18 structured and some more specific questions.

19 So with Ms. Carroll, you know, I'm sure my opening  
20 question about the alleged event was, you know, what happened  
21 and how do you -- you know, how did it affect your life. But  
22 at some point I would have asked her more specific questions  
23 about the quality of her intrusions, her avoidance behaviors.  
24 I would have followed up with the kinds of questions that I  
25 would be asking if I was doing a more structured exam.

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1 Q. Doctor, how debilitated -- you have used that word today I  
2 believe. How debilitated does someone have to be to be  
3 diagnosed with PTSD?

4 A. It is considered a severe and a disabling illness. When,  
5 for example, we used to evaluate veterans, combat veterans for  
6 PTSD, PTSD is -- it's considered a service-related injury. So  
7 if you have posttraumatic stress disorder, you are entitled to  
8 a certain level of disability payments. If you have partial  
9 PTSD, you are also entitled to disability payments, but not as  
10 much as full-blown PTSD.

11 We considered full-blown PTSD to be a disabling  
12 illness in which somebody in all likelihood would not be able  
13 to work and would need as much support as the military could  
14 provide. We also gave compensation for partial PTSD because it  
15 was understood that that, too, represented a cost to people's  
16 lives, and that's a situation they deserved to be compensated  
17 for.

18 Q. So I understand, Doctor, with full PTSD, at least in the  
19 context of veterans, they -- the assumption is they are so  
20 debilitated they cannot work, is that fair?

21 A. Pretty much, yeah.

22 Q. And what do you mean by partial PTSD?

23 A. I mean that somebody, you know, could, like Ms. Carroll,  
24 have severe avoidance behaviors and some intrusions and some  
25 decrements to herself self-esteem, but that it didn't reach the

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1 level where it has diminished her functioning or so intrusive  
2 in her life that she meets full criteria. She just doesn't.

3 Q. Now, you testified at the very beginning, I believe,  
4 Doctor, that there have been two categories, as I recall, where  
5 you have been asked to give opinions and that you haven't given  
6 them. Let me take them one by one.

7 The first one, as I understand it, is when you get a  
8 call, someone describes the case to you, and you don't even get  
9 engaged because you don't believe you can provide the opinion  
10 that's asked for. Did I get that right?

11 A. Yes.

12 Q. And can you again, without revealing any confidential  
13 information, can you give the jury a sense of what happens  
14 there that leads you to reach that decision?

15 A. Well, it could be a situation in which somebody has engaged  
16 in some really bad behavior of some kind, you know, maybe  
17 financial or criminal or assaultive, and the lawyer might have  
18 the idea that the information they have about this person's  
19 life or their childhood that indicates they have a trauma  
20 history, that that might be a compelling explanation for that  
21 behavior, and I might not agree. I might think that, based on  
22 information I am being presented with, that there is a good  
23 chance I won't agree, and so they might want to find a  
24 different expert. That's one kind of situation.

25 Q. And could you describe the second situation that's come up?

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1 A. The second situation has come up in the context of a  
2 prosecutor—there were a couple in the military, I think; there  
3 may have been some civilian ones—where a prosecutor has wanted  
4 to retain me to testify as to damages in the process of  
5 prosecuting somebody for rape, and there have been instances  
6 where I didn't feel like there was adequate information for me  
7 to rely on and/or I did not find the material compelling enough  
8 to feel confident to participate in that kind of a prosecution.

9 Q. So just so I understand, in the second category of cases,  
10 you are asked to provide an opinion as to whether a person  
11 suffered psychological consequences from a sexual assault?

12 A. Yeah, there are certain places—New Mexico is one and it  
13 sometimes happens in the military—where, in order to prosecute  
14 for certain levels of sexual assault, there needs to be an  
15 indication that the victim was damaged.

16 MR. SEIGEL: Objection. Relevancy.

17 THE COURT: Overruled.

18 A. There needs to be information that the victim was damaged,  
19 otherwise you have to bring a lesser charge. So sometimes I'm  
20 asked to participate in those cases. But what has happened on  
21 a couple of occasions is that after interviewing the victim,  
22 either I thought that while she might have had an -- a bad  
23 experience, I was not compelled that the person who was being  
24 charged had actually intended to rape them or I felt like the  
25 victim was too impaired in the sense that she was psychotic or

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1       she had too severe a character disorder for me to feel  
2       confident in relying on what she was telling me about her  
3       experience, and so in not knowing and not being certain enough,  
4       I chose not to participate in those cases.

5       Q. Now, Doctor, in the course of your work, your many years as  
6       working as a psychologist, have you had occasion to deal with  
7       people who you believe were exaggerating their symptoms?

8       A. Yes, on occasion.

9       Q. And could you give the jury again, without revealing  
10      anything confidential, what kinds of signals or clues would  
11      lead you to that conclusion?

12      A. Well, it used to come up occasionally in the Veterans  
13      Administration at the National Center because there was such a  
14      high level of compensation for full-blown PTSD that sometimes  
15      people would come in and it would seem that they had memorized  
16      the checklist and they could tell you this laundry list of  
17      symptoms. But if you stood back and engaged them in a longer,  
18      more freewheeling and open-ended interview, the rest of the  
19      story didn't attach to those symptoms in a way that was  
20      plausible. So sometimes it happened there.

21                  I have interviewed people who are, you know, are so  
22      hyperbolic about everything that it is hard to discern what is  
23      actually true, where the real pain is.

24                  I think I might need a follow-up question I think I  
25      lost my train of thought.

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1 Q. That's okay, Doctor.

2                 Based on the time you spent with E. Jean Carroll,  
3 sitting here today, do you have an opinion whether she is  
4 someone who exaggerates or minimizes adversity?

5 A. Oh, she is, without question, somebody who minimizes  
6 adversity, and that is to be -- and it is -- in general, she is  
7 a pretty effusive and ebullient person, so she has -- you know,  
8 she is expressive, but when it comes to adversity, it is hard  
9 for her to even give it voice, much less exaggerate anything.  
10 She is a minimizer.

11 Q. Doctor, you recall that Mr. Seigel asked you a bunch of  
12 questions about malingering. Do you recall that?

13 A. He did.

14 Q. What is malingering?

15 A. It is lying or misrepresenting your symptoms or your  
16 experience in some way.

17 Q. And he asked you a bunch of questions about -- withdrawn.

18                 Sitting here today, Doctor, do you have an opinion one  
19 way or the other -- I know it wasn't in your report, but do you  
20 have an opinion one way or another as to whether Ms. Carroll  
21 was malingering?

22 A. I do.

23 MR. SEIGEL: Objection.

24 MS. KAPLAN: I think he opened the door, your Honor.

25 MR. SEIGEL: Your Honor, could we approach? Sidebar?

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1           THE COURT: I can't hear you.

2           MR. SEIGEL: Could we have a sidebar on this?

3           THE COURT: Yes.

4           (Continued on next page)

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1 (At the sidebar)

2 THE COURT: Mr. Seigel, I take it the objection is not  
3 to the question that was asked and answered, but to the one you  
4 fear comes next.

5 MR. SEIGEL: It's a question -- that's correct, your  
6 Honor.

7 THE COURT: Okay.

8 MR. SEIGEL: Which goes to the ultimate conclusion in  
9 this case. I think that Ms. Carroll intends to ask her if she  
10 believes Ms. Carroll's claim.

11 MS. KAPLAN: So, your Honor, I would not have ever  
12 raised it and our report didn't raise it specifically, but then  
13 on cross he asked a whole bunch of questions geared -- and I  
14 could get it from the transcript -- geared to the whole issue  
15 that she couldn't tell one way or the other whether she was  
16 malingering or not, therefore trying to suggest in the mind of  
17 the jury that this whole thing could be made up and that she  
18 could have pulled the wool over the doctor's eyes, as well.

19 THE COURT: I would like to see the transcript you are  
20 relying on, Ms. Carroll.

21 MS. KAPLAN: Okay. We will get it, your Honor.

22 (Pause)

23 (Continued on next page)

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1 (In open court)

2 THE COURT: Members of the jury, this may take more  
3 than two minutes, so into the jury room, please.

4 And you I think, Dr. Lebowitz, should leave as well.

5 (Continued on next page)

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1 (Jury and witness not present)

2 THE COURT: We are waiting for some hard copy  
3 transcript of what the lawyers are discussing, but let's get  
4 started if we can. Over to you, Ms. Kaplan, I think.

5 And just for the sake of clarity to those who were not  
6 at the sidebar, I said to Mr. Seigel, and he confirmed that I  
7 was correct, that the objection was not to the question that  
8 was actually asked and answered—if, namely, whether  
9 Dr. Lebowitz had an opinion as to whether Ms. Carroll was  
10 malingering—but to the question that he expected would follow,  
11 which is "and what was that opinion."

12 So that's what I think we are discussing, yes?

13 MS. KAPLAN: Yes. So I can start reading some  
14 excerpts, if that would be helpful, your Honor.

15 THE COURT: You can start. But I didn't get the rest  
16 of the sentence.

17 MS. KAPLAN: I can start reading some excerpts from  
18 the screen, if that would be helpful, your Honor.

19 THE COURT: It would also be helpful to get page  
20 numbers, which I hope correspond on my screen and yours.

21 MS. KAPLAN: We believe it was page 46/line 1 through  
22 47/line 12.

23 THE COURT: I have read that part. I don't see that  
24 it is right on point or anything. He was just asking what  
25 evaluation methods, unless our pagination is different.

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1 MS. KAPLAN: I think our pagination is wrong. Do you  
2 want me to read it out loud?

3 THE COURT: Sure.

4 MS. KAPLAN: Okay. He says: "Now, that opinion is  
5 based on the accuracy and truthfulness of what Ms. Carroll told  
6 you, correct?"

7 THE COURT: If you give me one minute.

8 MS. KAPLAN: I'm sorry, your Honor?

9 THE COURT: No, it's not your problem, it's mine. I  
10 can do a key word search and catch up to you in a minute.

11 So in my transcript I'm at page 72, so go ahead.

12 MS. KAPLAN: I'm going to start over, your Honor,  
13 because I can't remember where I left off.

14 "Q Now, that opinion is based on the accuracy and truthfulness  
15 of what Ms. Carroll told you, correct?

16 "A Yes.

17 "Q Dr. Lebowitz, you are familiar with the term 'malingering'  
18 in a forensic or psychological aspect?

19 "A I am.

20 "Q And what 'malingering' means is lying, correct?

21 "A Yes.

22 "Q That means lying about a symptom? Yes?

23 "A Yes.

24 "Q Lying about a feeling?

25 "A Yes.

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1 "Q Lying about a cause?

2 "A Sure.

3 "Q And of course lying about an event, is that right?

4 "A Yes.

5 "Q Now, you understand that Ms. Carroll has a vested interest  
6 in the outcome of this case, right?

7 "A I'm not sure what you mean by 'vested,' but she certainly  
8 cares very much about the outcome of the case, yes.

9 "That's what I meant. You understand that."

10 THE COURT: You've got to interpose the Q and the A if  
11 you are going to read it.

12 MS. KAPLAN: I'm sorry, your Honor.

13 BY MS. KAPLAN:

14 "Q That's what I meant. You understand that, right?

15 "A Yes.

16 "Q Okay. Would be fair to say that she may have presented her  
17 symptoms and experiences in a way that would benefit her case?

18 "A I don't believe she did that. Actually I think that she is  
19 so adverse to being symptomatic and to be vulnerable that there  
20 have been many times where she has actually presented herself  
21 in ways that run exactly counter to, for example, my  
22 conclusions that she was injured.

23 "Q Based on your experience, though, in light of that  
24 statement, you would agree that if someone falsely accuses  
25 another of misconduct, it is conceivable that they may be

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1       hesitant to provide fabricated details relating to that  
2       accusation?

3       "A I'm not sure that I have. I'm not sure that is within my  
4       expertise."

5                 And then I can go on. He refers to just some  
6       deposition testimony about that.

7                 THE COURT: Which you want to read or don't want to  
8       read?

9                 MS. KAPLAN: I only see pieces at a time, your Honor.

10                THE COURT: So is this the sum and substance of what  
11       you are talking about?

12                MS. KAPLAN: He also asked about malingering, test for  
13       malingering, gets her to say she didn't conduct in another  
14       section.

15                THE COURT: Right. Well, right, and she just said  
16       that all over again.

17                MS. KAPLAN: Correct.

18                THE COURT: Okay. Mr. Seigel.

19                MR. SEIGEL: Your Honor, I didn't ask her for her  
20       opinion as to whether or not Ms. Carroll was telling the truth  
21       or if she believed her. To the contrary. I asked two  
22       questions preceding that colloquy that was just put up  
23       beginning with, "You are not offering an opinion in this case  
24       on whether the alleged sexual assault in fact occurred,"  
25       followed by, "You have no independent knowledge of whether that

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Lebowitz - Redirect

1       alleged sexual assault occurred or not." This does not open  
2       the door for her ultimate opinion.

3           THE COURT: This is a much smaller problem, if it's a  
4       problem at all, than meets everybody's eyes. I quite agree  
5       that it would not be appropriate for Dr. Lebowitz and  
6       presumably any other expert—but I don't have to go there—to  
7       give an opinion as to whether or not another witness in the  
8       case had told the truth in court. I think that's common ground  
9       and at least it's my view and that's the law in this court.

10          Now, Mr. Seigel, with great respect, I certainly know  
11       that you probably did not want to elicit an opinion -- let me  
12       strike that and come back to the next point.

13          There is, at least arguably, a distinction between an  
14       opinion as to whether a witness testified falsely in court and  
15       whether a psychologist or other mental health professional  
16       concluded that a witness in the course of an examination by the  
17       mental health professional was malingering, that is,  
18       exaggerating or lying to the mental health professional for  
19       whatever reason. It could be exaggeration, it could be  
20       presenting an all-false account of what allegedly happened, but  
21       that's concept number two.

22          Concept number three, you asked this question and got  
23       this answer, Mr. Seigel:

24        "Q Would it be fair to say that she may have presented her  
25       symptoms and experiences in a way that would benefit her case?

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1 "A I don't believe she did that."

2 The opinion, unless I am misinterpreting this, that  
3 you are trying to prevent her from giving came out of her mouth  
4 in response to your question this morning. Am I mistaken?

5 MR. SEIGEL: That's what she says in response to that  
6 question, your Honor.

7 THE COURT: Okay. So what's the dispute?

8 MR. SEIGEL: The dispute is, I am not asking her in  
9 that question whether she formed a belief as to whether  
10 Ms. Carroll was telling the truth about her accusation.

11 THE COURT: Where and when?

12 MR. SEIGEL: Whenever.

13 THE COURT: Here or in exaggerating or misrepresenting  
14 yourself to the doctor? Not that I think it matters in this  
15 case, by the way.

16 MR. SEIGEL: It would be to the doctor, your Honor.

17 THE COURT: Okay.

18 MR. SEIGEL: And here. It is just in general, your  
19 Honor. But I think would it be -- well, it is moving up the  
20 screen. But I don't ask her --

21 THE COURT: The answer you don't want to hear you  
22 already elicited, isn't that true? And if it's not, why isn't  
23 it?

24 MR. SEIGEL: Your Honor, I am not asking whether or  
25 not this witness was in fact malingering or lying. I'm just

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1 asking if she may have done that. That's it. May have  
2 presented her symptoms and experiences in a way, not that this  
3 happened or didn't happen.

4 THE COURT: Well, you know, "may have" is -- well, I'm  
5 going to try to suppress my inherent bent toward irony.

6 You said, "Would it be fair to say she may have  
7 presented her symptoms and experiences in a way that would  
8 benefit her?" She didn't say no. She may not have done that  
9 in the sense of, no, she most certainly didn't do that or it's  
10 certainly impossible that she did that. She said "I don't  
11 believe she did that."

12 You said: "Might she have done it?"

13 She said: "I don't think she did it."

14 Isn't that the import of what that testimony is?

15 MR. SEIGEL: Her answer is not responsive to the  
16 question.

17 THE COURT: Ah, but that objection wasn't made and no  
18 motion to strike it was made. And if we took out all the  
19 unresponsive answers in this record, it would be a lot shorter  
20 all around, like in every trial, by the way.

21 MR. SEIGEL: Nor am I asking her here for her opinion  
22 on the ultimate conclusion.

23 THE COURT: Well, what do you think this was? "I  
24 don't believe she did that." That's not her opinion?

25 MR. SEIGEL: No, exaggeration of --

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1           THE COURT: She didn't say: I don't believe that is  
2 engraved on the tablets that came down with Moses. She didn't  
3 say that.

4           MR. SEIGEL: Did she believe she exaggerated her  
5 symptoms, not whether or not this event occurred, whether or  
6 not there was an alleged rape. She doesn't speak to that here.

7           THE COURT: Do you think "experiences" might cover the  
8 alleged rape?

9           MR. SEIGEL: Not on the ultimate issue in this case,  
10 your Honor, no.

11          THE COURT: Nobody has asked her that.

12          MR. SEIGEL: Right.

13          THE COURT: Except you. Well, maybe you didn't  
14 either.

15          MR. SEIGEL: I did not.

16          THE COURT: But you got the answer.

17          MR. SEIGEL: No, I did not there.

18          THE COURT: But this is a tempest in a teapot. The  
19 record is what the record is, and that's what it's going to be.

20          MR. SEIGEL: Your Honor, this is experiences which  
21 could be, as well, post the allegations. I'm not talking about  
22 the alleged rape here. On this record --

23          THE COURT: Mr. Seigel, with all due respect, the  
24 issue here is not what you were talking about. The issue is  
25 that the answer you are now objecting to prospectively is in

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Lebowitz - Redirect

1 this record now and I hear no basis for it going away.

2 MR. SEIGEL: Your Honor, when you are dealing with the  
3 fundamental issue as to whether or not an expert can opine on  
4 the ultimate issue in the case, I think the record with respect  
5 to opening the door would have to be greater than a general  
6 conclusory statement.

7 THE COURT: Mr. Seigel, with all due respect, we are  
8 not talking about opening the door. I know that's what  
9 Ms. Carroll said at the sidebar. The problem with it is that  
10 the door has opened and closed and the horse is out of the  
11 barn. That's the problem.

12 MR. SEIGEL: Your Honor, "I don't believe she did  
13 that" refers, based on that question and answer, that to  
14 whether or not she presented her symptoms and some general  
15 conclusory reference to experiences.

16 THE COURT: Like how she liked the baseball game.

17 MR. SEIGEL: Your Honor, experiences how she would be  
18 potentially post --

19 THE COURT: I'm not going to argue this with you  
20 further because we have reached the point of diminishing  
21 returns. The issue before me and the reason the jury is in the  
22 other room while we are having this discussion has to do with  
23 the fact that counsel asked if Dr. Lebowitz had an opinion, if  
24 my memory serves, on the subject of whether Ms. Carroll was  
25 malingering. Do I remember the question? And she said she had

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Lebowitz - Redirect

1 an opinion, right? Do we all agree that's what happened? Or  
2 do I have to get it out of the transcript?

3 MR. SEIGEL: Your Honor, to the contrary, she actually  
4 said. . .

5 (Counsel confer)

6 MR. TACOPINA: I think you are right, your Honor.

7 THE COURT: Yes. Thank you, Mr. Tacopina, and we are  
8 both right, you and I, because --

9 MR. TACOPINA: Even a broken clock works twice a day.

10 THE COURT: Exactly so. Or as I read somewhere last  
11 night, even a blind squirrel finds an acorn once in a while.

12 MR. TACOPINA: Oh, you read that.

13 THE COURT: I did read that last night.

14 MR. TACOPINA: We will see about that.

15 THE COURT: We will see about that.

16 MR. TACOPINA: Sure will.

17 THE COURT: Okay. But that was the question. She  
18 said: I do. You, Mr. Seigel, objected. There was no pending  
19 question, of course, but you objected, and we do that all the  
20 time. Lawyers do that all the time. They object  
21 prospectively. So when we got to the sidebar I said, You are  
22 really objecting to the next question, aren't you? And you  
23 said yes, and we had a discussion at the sidebar. And  
24 Ms. Carroll said, You opened the door, Mr. Seigel, right?

25 MR. SEIGEL: Yes.

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Lebowitz - Redirect

1                   THE COURT: And I have now looked at the transcript  
2 and she has read some of it back, and I am saying it doesn't  
3 matter whether you opened the door, the answer is already in  
4 the record for whatever it means. What it means is a matter  
5 for argument, and you win, Mr. Seigel. The next question will  
6 not be asked or answered.

7                   MR. SEIGEL: I learned to remain quiet when I won.

8                   MR. TACOPINA: It didn't feel like a win. I would say  
9 it didn't feel like a win.

10                  THE COURT: You know, it doesn't quite fit here, but  
11 the first lead lawyer in a case I tried, I hate to tell you how  
12 many decades ago, once said to me that when the judge has ruled  
13 your way, it's time to be quiet and get out of the courtroom.

14                  Now, I realize you are not so happy with the ruling,  
15 but there it is.

16                  Okay. Let's get the jury back.

17                  MS. KAPLAN: Thank you, your Honor.

18                  THE COURT: Somebody should tell Dr. Lebowitz.

19                  MS. KAPLAN: Oh, yes.

20                  (Continued on next page)

N532Car3

Lebowitz - Cross

1 (Jury and witness present).

2 THE COURT: Thanks, folks.

3 Ms. Carroll, you may proceed.

4 MS. KAPLAN: No further questions, Dr. Lebowitz.

5 THE COURT: All right. Any recross?

6 MR. SEIGEL: Yes, your Honor.

7 RECROSS EXAMINATION

8 BY MR. SEIGEL:

9 Q. Dr. Lebowitz, you testified on redirect about asking  
10 Ms. Carroll open-ended questions about what happened and how it  
11 affected her life, correct?

12 A. Yes.

13 Q. Okay. You have no independent knowledge of whether this  
14 alleged sexual assault occurred or not, correct?

15 A. That's correct.

16 Q. And your opinion in this case is based upon the accuracy  
17 and truth of what Ms. Carroll told you. Yes?

18 A. Yes, in the context of what I know about psychology and  
19 trauma, yes.

20 MR. SEIGEL: Thank you very much. Nothing further.

21 THE COURT: Thank you.

22 Anything else, Ms. Carroll?

23 MS. KAPLAN: Nothing, your Honor.

24 THE COURT: Thank you, Dr. Lebowitz. You are excused.

25 (Witness excused)

N532Car3

C. Carroll - Direct

1                   THE COURT: Next witness.

2                   MR. CRAIG: Plaintiff calls Cande Carroll.

3 CANDE CARROLL,

4                   called as a witness by the plaintiff,

5                   having been duly sworn, testified as follows:

6                   THE COURT: You may proceed, counselor.

7 DIRECT EXAMINATION

8 BY MR. CRAIG:

9 Q. Good afternoon, Ms. Carroll.

10                  Ms. Carroll, are you related to E. Jean Carroll?

11 A. Yes. We are sisters.

12 Q. Are you older or younger?

13 A. I'm younger, four years.

14 Q. And are you currently employed?

15 A. I am retired.

16 Q. Where do you live?

17 A. Most of the year I live in Cocoa Beach, Florida, and a few  
18 months of the year, maybe four, four and a half months, I live  
19 in Denville, New Jersey.

20 Q. Do you have any children?

21 A. I do. I have one son.

22 Q. And where does he live?

23 A. He lives in Denville, New Jersey, with his family.

24 Q. And do you have any grandchildren?

25 A. I do.

N532Car3

C. Carroll - Direct

1 Q. How many?

2 A. There is one living there. He is eight years old.

3 Q. And where did you grow up, Ms. Carroll?

4 A. I grew up, my first five years in Huntertown, Indiana, and  
5 then the rest of my childhood and teen years were in  
6 Fort Wayne, Indiana.

7 Q. Did you live with your parents?

8 A. I did.

9 Q. And who were your parents?

10 A. My mother was Betty McKinney. My father was Thomas F.  
11 Carroll, Jr.

12 Q. In addition to E. Jean, do you have other siblings?

13 A. I do. I have a younger sister Barbara, six years younger;  
14 and ten years younger than Barbara is Thomas Carroll.

15 Q. And did you grow up with your siblings?

16 A. I did.

17 Q. And so you fall second in the birth order?

18 A. Yes.

19 Q. And what was your father's profession?

20 A. He owned furniture stores in Fort Wayne.

21 Q. What was your mother's profession?

22 A. She was a homemaker, and after my sister Barbara was well  
23 into elementary school, she worked at the Allen County public  
24 library.

25 Q. And are your parents still living?

N532Car3

C. Carroll - Direct

1 A. They are not.

2 Q. How would you describe your relationship with your parents  
3 growing up?

4 A. It was a loving family.

5 Q. Did you consider your relationship to be open?

6 A. No, not particularly.

7 Q. And what do you mean by not particularly?

8 A. We didn't talk about personal things much.

9 Q. How often, if ever, would you talk about issues in romantic  
10 relationships?

11 A. Never.

12 Q. Talk to them about issues in your dating life?

13 A. No.

14 Q. Are there any sorts of negative experiences you would share  
15 with them?

16 A. Not exactly that I would share with them.

17 Q. And what do you mean by not exactly that you would share  
18 with them?

19 A. Ask me that again.

20 Q. What do you mean by not exactly that you would share with  
21 them?

22 A. I wouldn't have brought anything to their attention.

23 Q. Do you mean that sometimes they would become aware of  
24 negative experiences?

25 A. Yes.

N535car4

C. Carroll - Direct

1 Q. Can you give us an example of what you mean by that?

2 A. I would say they were fairly protective and I had a  
3 negative experience when I was -- it was probably fall of my  
4 senior year in high school.

5 Q. And what was that negative experience?

6 MR. BRANDT: Your Honor, objection. Relevance.

7 THE COURT: Mr. Craig.

8 MR. CRAIG: I believe it will give some context in  
9 this sort of short line of questioning about her family, your  
10 Honor.

11 MR. BRANDT: Again, your Honor, I think the experience  
12 of the witness has been related to the issue here.

13 THE COURT: Certainly on the present record,  
14 sustained. You can. Try to lay a foundation.

15 BY MR. CRAIG:

16 Q. Ms. Carroll, when did you speak with -- did you speak with  
17 your parents about negative experiences?

18 A. Rarely, if ever.

19 Q. And why is that?

20 A. I was private.

21 Q. And how would you describe your family environment when it  
22 came to sharing negative things?

23 A. We were private. We were private.

24 (Continued on next page)

25 BY MR. CRAIG:

N535car4

C. Carroll - Direct

1 Q. And how, if at all, did your parents teach you to be  
2 private about negative things?

3 A. They didn't really teach me. I would say probably just by  
4 example.

5 Q. And how, if at all, did your parents teach you to portray  
6 yourself publicly?

7 A. Oh. Always with a positive attitude.

8 Q. And how would your parents communicate that message?

9 A. If we were -- if I was on my way out the door for maybe a  
10 challenge at school, or a contest of some kind, or a speech, my  
11 dad would always say "smile."

12 Q. And how often would your dad say that?

13 A. Many days a week.

14 Q. And what about your mother? Would she say that as well?

15 A. She didn't necessarily say that but she was behind it all  
16 the way.

17 Q. When you were growing up in Indiana, were you and E. Jean  
18 close?

19 A. Not particularly. We shared a room.

20 Q. Did you speak at all about personal problems when you were  
21 growing up?

22 A. Never.

23 Q. How did your relationship with E. Jean change as you got  
24 older?

25 A. When E. Jean graduated from high school, she took a job in

N535car4

C. Carroll - Direct

1 Madison, Wisconsin, and so we were no longer sharing a room and  
2 so from that time on we became close.

3 Q. Did you speak about personal problems then when she moved  
4 out of the house?

5 A. No.

6 Q. Now, I want to direct your attention to the early 1990s.

7 At that time how much did you speak with your sister E. Jean?

8 A. Most days.

9 Q. What accounts for that change?

10 A. We were working together, she was writing a biography of  
11 Hunter S. Thompson and I was working with her doing research,  
12 transcription.

13 Q. And how long did you work with her on that book?

14 A. Probably through 1993.

15 Q. Did you continue working with her in any capacity after  
16 that?

17 A. I did. I -- we created a website as a place to, where I  
18 could curate her advice columns and articles she had written  
19 for other publications.

20 Q. Did you work with her on any additional projects?

21 A. Other than -- other than specific articles which came one,  
22 by one, by one, no, not until 2002.

23 Q. And what happened in 2002?

24 A. E. Jean came up with an idea for an online dating site and  
25 I worked with her on that project. We were partners.

N535car4

C. Carroll - Direct

1 Q. In this period in the early 1990s to the 2000s, did you  
2 speak with E. Jean about personal problems?

3 A. No.

4 Q. Did you speak with her about difficult experiences in your  
5 personal lives?

6 A. Not really. I had had a significant breakup with a  
7 boyfriend in 2000 and I spoke with her about that.

8 Q. And are you aware that your sister E. Jean has accused  
9 Donald Trump of sexually assaulting her?

10 A. Yes, I am aware of that.

11 Q. And when did you learn about that?

12 A. In 2019.

13 Q. And how did you learn about her accusation?

14 A. An excerpt from a book she was writing appeared in *New York*  
15 magazine. I believe it was *New York* magazine.

16 Q. And how did you learn about that book excerpt?

17 A. As I recall, she sent an e-mail to the entire family. One  
18 e-mail to the entire family with a link to the article.

19 Q. After you received that link, did E. Jean ever explain to  
20 you why she hadn't told you about the sexual assault  
21 previously?

22 A. I don't recall that she did.

23 Q. Did you ever ask?

24 A. I don't think I did.

25 Q. Why not?

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C. Carroll - Cross

1 A. It seemed to be explained in the article. But I can't  
2 remember specifically how.

3 Q. Did it surprise you that E. Jean had not told you about the  
4 sexual assault before?

5 A. No.

6 Q. Why not?

7 A. She just wouldn't have. We didn't talk about those things.

8 Q. And, in 2019, how would you describe your relationship with  
9 E. Jean?

10 A. It was close.

11 Q. Were you surprised that you learned about E. Jean's  
12 accusation against Donald Trump via e-mail?

13 A. No.

14 No further questions, your Honor.

15 THE COURT: Thank you. Cross-examination.

16 MR. BRANDT: Thank you, your Honor.

17 THE COURT: Thank you, Mr. Brandt.

18 CROSS EXAMINATION

19 BY MR. BRANDT:

20 Q. Ms. Carroll, W. Perry Brandt. I just have a few questions  
21 you following up on the prior questioning.

22 So, E. Jean Carroll is your older sister by four  
23 years; is that correct?

24 A. Yes, that's correct.

25 Q. And you grew up together, correct?

N535car4

C. Carroll - Cross

1 A. Correct.

2 Q. And I think you said this on your direct examination but  
3 correct me if I am wrong, you actually shared a bedroom with  
4 her?

5 A. We did.

6 Q. And for how many years did you share a bedroom?

7 A. From my birth until 1961, approximately.

8 Q. So I'm guessing about 14, 15 years, give or take?

9 A. Yes.

10 Q. So you actually shared a bedroom with E. Jean Carroll for  
11 14-15 years, give or take?

12 A. I believe so.

13 Q. And then I think you said she moved away?

14 A. Yes.

15 Q. She moved away. But I think you also said that after you  
16 both were adults you continued to stay in touch; correct?

17 A. Yes.

18 Q. And your relationship was close; correct?

19 A. Yes.

20 Q. And I think you said in the 1990s you were in almost daily  
21 contact with her; correct?

22 A. Yes.

23 Q. And you did this book, worked on a book with her I think  
24 you said?

25 A. I did research and transcriptions for her on that book.

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C. Carroll - Cross

1 Q. And I think you said going forward, in about 2002, you and  
2 she founded the greatboyfriends.com website?

3 A. Yes. That's right. I don't think I said greatboyfriends,  
4 but that was the name of it, yes.

5 Q. But anyway, to make a long story short, during the 1990s  
6 you were in close contact with her, correct?

7 A. Yes.

8 Q. And you had a close personal relationship, correct?

9 A. Yes.

10 Q. And I think you said you talked almost daily, correct?

11 A. Most days.

12 Q. And the first you ever heard about any alleged sexual  
13 assault on your sister by Donald Trump wasn't until 2019?

14 A. I believe so, yes.

15 Q. That's the first you ever heard and you heard by e-mail?

16 A. The e-mail was a link to the article.

17 Q. OK. And that's the first you had ever been told by your  
18 sister, over all those years since the 1990s; correct?

19 MR. CRAIG: Objection. Asked and answered?

20 THE COURT: I think so. Sustained.

21 MR. BRANDT: Thank you.

22 Thank you very much.

23 THE COURT: Any further examination?

24 MR. CRAIG: Nothing further, your Honor.

25 THE COURT: Thank you, Ms. Carroll. You are excused.

N535car4

1           THE WITNESS: Thank you.

2           (Witness excused)

3           THE COURT: Who is the next witness?

4           MR. FERRARA: Plaintiff calls Natasha Stoynoff.

5           THE COURT: The direct you estimate is how long?

6           MR. FERRARA: 30 to 40 minutes.

7           THE COURT: Let's take our break here.

8           (Recess)

9           THE COURT: Let's get the jury, please.

10          MR. TACOPINA: Your Honor, we are at the point where  
11 we have an issue that we fronted. I know you don't prefer  
12 fronted. We advanced to the Court --

13          THE COURT: Well, I am perfectly neutral about the  
14 word. I just never used it that way.

15          MR. TACOPINA: We had advanced to the Court  
16 previously, Mr. Ferrara and I, it is about the issue of that  
17 the Billy Bush tape being played twice. So while we are not  
18 contesting authenticity, seriously or otherwise, it is going to  
19 be played in the deposition -- designated deposition testimony  
20 that is coming in this afternoon. I don't think it should be  
21 played twice because this witness is going to testify that she  
22 saw it and heard it but it is going to be played -- the next  
23 witness is basically depositions, it is going to be played  
24 there.

25          THE COURT: Do you have something to say about this,

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1 Mr. Ferrara?

2 MR. FERRARA: It depends on whether your Honor is  
3 inclined to -- your Honor, in other words -- yes, your Honor.  
4 I think it is perfectly appropriate for us to play it. We have  
5 seen defense put multiple pieces of evidence in front of  
6 different witnesses. We haven't objected. It is appropriate.  
7 There are two things we want the jury to do while they watch  
8 the video two different times and we think the evidence comes  
9 in differently. It is part of Ms. Stoynoff's story that she is  
10 going to explain, it is part of the steps she took in her life,  
11 and then it is also something that we showed to Mr. Trump in  
12 his deposition and we would like the jury to see his reaction  
13 to it at that time as well.

14 THE COURT: Look. I understand the point, but the  
15 fact of the matter is that there has been so much repetition in  
16 this trial. And it's, in effect, relevant for two different  
17 reasons. How long is it?

18 MR. FERRARA: A minute and 57 seconds.

19 THE COURT: I think we can all tolerate a minute and  
20 57 seconds.

21 Bring the jury in, please.

22 What is our best time estimate on this witness?

23 MR. FERRARA: I have about maybe 35 or 40 minutes.

24 MR. TACOPINA: 20.

25 THE COURT: Thank you.

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1 (Continued on next page)  
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N535car4

Stevens - Direct

1 (Jury present)

2 THE COURT: Call your next witness, Mr. Ferrara.

3 MR. FERRARA: Plaintiff calls Natasha Stoynoff to the  
4 stand.

5 THE DEPUTY CLERK: Please rise and raise your right  
6 hand.

7 NANCY STEVENS,

8 called as a witness by the Plaintiff,

9 having been duly sworn, testified as follows:

10 THE DEPUTY CLERK: Please be seated, and if you could  
11 please state your name and spell your first and last names for  
12 the record.

13 THE WITNESS: Nancy Stevens. N-A-N-C-Y S-T-E-V-E-N-S.

14 DIRECT EXAMINATION

15 BY MR. FERRARA:

16 Q. So, good afternoon. Let's clear up some confusion right  
17 off the bat. Do you go by any other names?

18 A. Yes. I also go by Natasha Stoynoff.

19 Q. Why is that?

20 A. Because that is my professional name. It is my family's  
21 original name. And I started using it professionally and  
22 always meant to legally change it but just never got around to  
23 it.

24 Q. Is that the name you prefer?

25 A. I prefer it.

N535car4

Stevens - Direct

1 Q. So I will call you Ms. Stoynoff.

2           Where do you live?

3 A. I live in Canada right now.

4 Q. What do you do for a living?

5 A. I'm an author and freelance journalist.

6 Q. Just briefly, could you describe some of your recent  
7 projects?

8 A. Yes. I have written. I just finished my 16th book,  
9 they're usually memoirs. Some of them are celebrity memoirs.  
10 I am also a freelance magazine journalist. I do feature  
11 stories and cover stories, usually with actors and musicians.  
12 And, I am currently working on two TV pilots.

13 Q. I want to call your attention to the year 1992. Where did  
14 you work at that time?

15 A. I was living in Toronto then and I was working for the  
16 Toronto Sun, I had a column, and I also started freelancing for  
17 People magazine there.

18 Q. At some point did you leave Toronto as part of your work  
19 with People?

20 A. Yes. I moved to New York in summer of '97.

21 Q. What was your role at People at that time, 1997?

22 A. I was on-contract for a year at the magazine and I did a  
23 combination of entertainment stories and human interest  
24 stories. I was a reporter.

25 Q. What does it mean to be on-contract?

N535car4

Stevens - Direct

1 A. It's -- it is like a step below being on-staff somewhere.

2 So, I think contracts are for a certain amount of  
3 time. You can have a six-month contract. I had a year  
4 contract. Almost like a work-for-hire situation.

5 Q. And so then, on-staff is like being a full-time employee?

6 A. Yes.

7 Q. Did there come a point where you were on-staff at *People*  
8 magazine?

9 A. Yes.

10 Q. When was that?

11 A. The summer of 1998 I went on full-staff.

12 Q. How long did you work on full-staff for *People* magazine, or  
13 until what year?

14 A. Until the end of 2009.

15 Q. Can you give us a sense of what you worked on during your  
16 time at *People* magazine?

17 A. Yes. Mostly entertainment stories interviewing actors and  
18 musicians, and of course news stories as well, and human  
19 interest. But mostly entertainment.

20 Q. Are you familiar with the term "beat"? B-E-A-T.

21 A. Yes, I am.

22 Q. What does that mean in your profession?

23 A. At the magazine, reporters are given what we call beats,  
24 which means that we concentrate on a certain actor or TV show  
25 so that we are the ones who do those interviews over and over.

N535car4

Stevens - Direct

1 For example, one of my beats was the *Sex and The City*  
2 television show, so when we had to interview the actors or  
3 director or anything related to the show, I was often -- I was  
4 one of the main ones to do those interviews. And this is a way  
5 to build rapport with the celebrities and with their publicists  
6 and so everyone is familiar with each other and feel  
7 comfortable with each other.

8 Q. Were you ever on a beat involving Donald Trump?

9 A. Yes.

10 Q. When were you on -- what beat was that?

11 A. The Trump beat. I was on the Trump beat.

12 Q. Do you recall what years you were on that beat?

13 A. Yes. It probably started, I think *The Apprentice* began in  
14 2004, so it might have started around then. 2003, 2004.

15 Q. What kind of stories would you cover involving Mr. Trump?

16 A. I did an *Apprentice* cover. I did a story on his wedding to  
17 Melania, I went down to Mar-a-Lago, his home in Florida for  
18 that, and all sorts of anything in between. I also did other  
19 Trump-related stories. I did a story on Ivanka's wedding -- I  
20 can't remember who her husband was -- and I believe I did a  
21 story on Melania for something, I just can't remember what it  
22 was either.

23 Q. When you reported on those stories, what sorts of  
24 interactions would you have with Mr. Trump?

25 A. Well, I would be interviewing him on the phone, in-person,

N535car4

Stevens - Direct

1 often at his home on Fifth Avenue, at his home in Mar-a-Lago,  
2 sometimes at events, sometimes on the set of *The Apprentice*.

3 Q. Let me call your attention to the sort of end of 2005, late  
4 December 2005. Did you have occasion to cover a story  
5 involving Mr. Trump and his family at that time?

6 A. Yes, I did.

7 Q. What story was that?

8 A. This was a story that we were working on about his -- first  
9 year anniversary and the arrival of their baby Barron.

10 Q. Do you want to take a moment?

11 A. I'm all right.

12 Q. Sorry. To whom was Mr. Trump married then?

13 A. He was married to Melania.

14 Q. I want to show you what's been marked for identification as  
15 Plaintiff's Exhibit 9. Do you recognize this?

16 A. Yes.

17 (Continued on next page)

18

19

20

21

22

23

24

25

N532Car5

Stevens - Direct

1 Q. What is it?

2 A. This is a story I reported when I went down to Mar-a-Lago  
3 at the end of 2005.

4 MR. FERRARA: Plaintiff offers 9, your Honor.

5 MR. TACOPINA: No objection.

6 THE COURT: Received.

7 (Plaintiff's Exhibit 9 received in evidence)

8 BY MR. FERRARA:

9 Q. Mr. Lam, we could show this to the jury, please. Thank  
10 you.

11 And so this photo that we are looking at sort of on  
12 the right side of the screen, was that taken at Mar-a-Lago?

13 A. Yes.

14 Q. We can take that down, Mr. Lam. Thank you.

15 Do you recall when that was published?

16 A. Yes, sometime in January 2006.

17 Q. Did you -- how does it work? Did you write this article?

18 A. For that article, I reported it and I believe there was  
19 another writer who wrote it. So that means I went down and  
20 interviewed everybody, wrote it all out, sent it to the  
21 magazine, and then there was another staff writer who kind of  
22 put it together. His name is on there as well.

23 Q. Let me also show you what's been marked for identification  
24 as Plaintiff's Exhibit 17. Do you recognize this?

25 A. Yes.

N532Car5

Stevens - Direct

1 Q. What is it?

2 A. This is a group photo that was taken when I was down at  
3 Mar-a-Lago doing all the interviews for that anniversary story  
4 I mentioned.

5 MR. FERRARA: Plaintiff offers 17.

6 MR. TACOPINA: No objection.

7 THE COURT: Received.

8 (Plaintiff's Exhibit 17 received in evidence)

9 BY MR. FERRARA:

10 Q. Let's just take a look quickly here. If we sort of look,  
11 the second person from the left, as we look at the photo, who  
12 is that?

13 A. That's me.

14 Q. Who is to your left in the photo, to our right?

15 A. Donald Trump.

16 Q. And sort of in front of him in the gold?

17 A. His wife Melania.

18 Q. Who were the other folks in the photo?

19 A. Someone -- there is a photographer, and someone there is  
20 the makeup artist, and I'm not sure who the other three are.  
21 They were part of the crew somehow, with makeup, hair, or  
22 photos.

23 Q. Do you recall when this photo was taken?

24 A. It was taken the day I was there doing interviews, December  
25 27th, 2005.

N532Car5

Stevens - Direct

1 Q. We can take that down. Thank you, sir.

2                   What was your itinerary for this trip to Mar-a-Lago?

3 A. I arrived the evening of the 26th, checked into a hotel,  
4 and then I was there for most of the day at Mar-a-Lago on the  
5 27th, and then I left the next day.

6 Q. So how does it work when you are conducting interviews in a  
7 setting like this? Are they prescheduled or is it sort of grab  
8 folks as they are available? How did it work during that sort  
9 of that day you were there?

10 A. In this instance, when you are doing the photo shoot at the  
11 same time as trying to interview people, you try to sort of  
12 work together, and I would try to grab whoever I could  
13 interview, whether it is Donald or Melania, in between photo  
14 shoots. So sort of ten minutes here, 15 minutes there, grab  
15 one, grab another, and at the end of the day the point was to  
16 have them together to have a little bit of banter between  
17 husband and wife.

18 Q. So at some point did you interview Mr. Trump that day?

19 A. Yes, several times.

20 Q. And at another point did you interview Mr. Trump and  
21 Mrs. Trump together?

22 A. Yes.

23 Q. Was there a break in between those interviews?

24 A. Yes, there was.

25 Q. What happened during that break?

N532Car5

Stevens - Direct

1 A. When we were preparing to -- when I was preparing to  
2 interview them together, Melania had just finished a photo  
3 shoot by the pool and she was going to go upstairs and change  
4 and get ready for the next photo shoot, and so we were on a  
5 little bit of a break, and Donald said, I would like to have  
6 you seen this really great room, this painting in this really  
7 great room. There is this really great room we've got. Have  
8 you seen it? I can't remember his exact words, something like  
9 that. And I said, No, I haven't. And -- so he led the way to  
10 show me this room.

11 Q. So let me ask you a question just to back up really  
12 quickly. So where were you conducting the interview of this  
13 sort of one-on-one interview of Mr. Trump? Where were you  
14 conducting that?

15 A. So while she was doing the photo shoot by the pool, we were  
16 all in the backyard. She is by the pool doing the photo shoot,  
17 and we are sitting in a little area closer to the back doors  
18 that has couches and tables and that's where I'm -- I was  
19 talking to him.

20 Q. How many people were around at that point?

21 A. Well, all the people in that photo you showed and probably  
22 lots of staff going in and out, so I guess in total maybe 20  
23 people were sort of back and forth.

24 Q. So where did you go with Mr. Trump after he said, I want to  
25 show you this room?

N532Car5

Stevens - Direct

1 A. So we -- I followed him, and we went in through these back  
2 doors and down a hall, as I recall it, and turned right into a  
3 room.

4 Q. Who was with you at that point?

5 A. As I recall, just he and I.

6 Q. So what happened next?

7 A. So we -- we walked into a room, and I'm looking in this  
8 room, and I went in first and I'm looking around, I'm thinking,  
9 wow, really nice room, wonder what he wants to show me, and  
10 he -- I hear the door shut behind me. And by the time I turn  
11 around, he has his hands on my shoulders and he pushes me  
12 against the wall and starts kissing me, holding me against the  
13 wall.

14 Q. Was anyone else in the room at this time?

15 A. Nobody else.

16 Q. What did you -- how did you react?

17 A. I started -- I tried to push him away.

18 Q. Had you -- had anything been said up until that point when  
19 you walked into the room? Did he say anything or did you say  
20 anything?

21 A. No, not that I recall.

22 Q. Did you say anything to invite that conduct?

23 A. No.

24 Q. So what -- I think you said you tried to shove him away.

25 What happened?

N532Car5

Stevens - Direct

1 A. He came toward me again, and I tried to shove him again.

2 Q. What was he doing sort of -- what was he doing with, let's  
3 say, the rest of his face or body?

4 A. Well, he was kissing me and, you know, he was against me  
5 and just holding my shoulders back.

6 Q. Did you -- what, if anything, did you say while this was  
7 happening?

8 A. I didn't say words. I couldn't. I tried. I mean, I was  
9 just flustered and sort of shocked and I -- no words came out  
10 of me. I tried, though. I remember just sort of mumbling.

11 Q. Did you tell him to stop?

12 A. I couldn't say the words.

13 Q. Did you scream?

14 A. No.

15 Q. How long -- do you recall how long that went on for?

16 A. A few minutes.

17 Q. How did it end?

18 A. A butler came into the room.

19 Q. Sorry? You said the butler, was that the person -- was  
20 that the person's actual title or is that --

21 A. That was his title. The butler or head butler was my  
22 contact for the day. So when I went there in the morning, he  
23 is the person I called. He is the person who took me around.  
24 He is the person who sort of was coordinating things for me  
25 while I was there.

N532Car5

Stevens - Direct

1 Q. What did the butler do?

2 A. Came to tell us that Melania was finished changing, it was  
3 time to go back to the couch area and resume the interviews.

4 Q. How did Mr. Trump react when the butler came in?

5 A. He stopped doing what he was doing.

6 Q. Were you able to perceive whether the butler saw what had  
7 been happening?

8 A. I don't know if he saw, but to my mind, I gave him a kind  
9 of a "get me out of here" look, and I felt like he understood.

10 Q. So what happened, what happened next?

11 A. The butler led us back to the couch area, and Melania was  
12 on her way, and Trump said a few things to me.

13 Q. What did he say to you?

14 A. He said, Oh, you know we are going to have an affair, don't  
15 you? You know, don't forget what -- don't forget what Marla  
16 said, best sex she ever had. We are going to go for steak, we  
17 are going to go to Peter Luger's. We're going to have an  
18 affair.

19 Q. What was the reference to Marla? What was that?

20 A. Marla Maples, his second wife, was quoted on the cover of  
21 the *Daily News* or the *New York Post*, I think, as saying that  
22 Donald Trump was the best sex she ever had.

23 Q. What did you say in response to any of this?

24 A. I had trouble speaking. I was so shocked and flustered at  
25 what had just transpired and what was transpiring that, like, I

N532Car5

Stevens - Direct

1 couldn't get words out. I was just like choked up. I couldn't  
2 answer him.

3 Q. At some point did Marla return -- sorry, pardon me, at some  
4 point did Melania return?

5 A. Yes.

6 Q. And what happened at that point?

7 A. So they -- she sat down next to him and then he suddenly  
8 was very doting on her, and I was to continue the interview,  
9 which I did.

10 Q. How were you able to continue the interview after what had  
11 just happened?

12 A. Well, it was not easy, but I had my questions with me. I  
13 sort of went on autopilot, and I just knew I had to go back  
14 with my work done. So I really went on kind of an autopilot  
15 thing.

16 Q. What happened after the interview?

17 A. I was there for a little longer, probably observing the  
18 next photo shoot, and then I went back to my hotel.

19 Q. Had -- let me do this. Mr. Lam, if we could go back to  
20 Plaintiff's Exhibit 17.

21 This is the photo of you all. Ms. Stoynoff, do you  
22 know whether this photo was taken before or after Mr. Trump  
23 assaulted you?

24 A. I don't recall.

25 Q. Are you smiling in this photo?

N532Car5

Stevens - Direct

1 A. Yes.

2 Q. Do you think you could have been smiling standing next to  
3 Mr. Trump had it been taken after the assault?

4 A. Yes, I do, because I was trying to pretend that nothing had  
5 happened.

6 Q. Were you able to do that?

7 A. I tried. I'm not sure if it worked. But I was trying my  
8 best.

9 Q. Thank you, Mr. Lam, we can take that down.

10 Before this incident, how many times had you  
11 personally interviewed Mr. Trump?

12 A. I would say eight, nine, ten times, something like that.

13 Q. Had he ever tried anything like this before?

14 A. Never.

15 Q. Had he ever been inappropriate before?

16 A. No, just asking me out for dinner, that sort of thing, but  
17 nothing physical.

18 Q. What was different about this occasion?

19 A. It was the first and only time I had ever been in a room  
20 alone with him.

21 Q. That night, the night he assaulted you, did you tell anyone  
22 about what had happened?

23 A. Yes.

24 Q. Who did you tell?

25 A. I spoke to my journalism professor, my former journalism

N532Car5

Stevens - Direct

1 professor, and I told him and that night or in the morning I  
2 spoke to one of my dearest friends, a film producer in  
3 Los Angeles, Marina.

4 Q. What about when you returned to New York? Did you tell  
5 anyone?

6 A. Yes. As soon as I went to the office, as soon as I got to  
7 the office, I told my next superior up what had happened.

8 Q. Did you tell the -- so and you are talking about your next  
9 superior up at *People* magazine?

10 A. Yes.

11 Q. Did you tell, let's say, like, the executives, let's say,  
12 the folks who run *People* magazine? Did you tell them what had  
13 happened?

14 A. I didn't tell anyone higher than my next superior, who was  
15 my dearest friend, as well.

16 Q. Why didn't you tell anyone higher than your next sort of  
17 one level up?

18 A. I told other colleagues, but no one higher, because I was  
19 ashamed and humiliated to what had happened. I went through  
20 the whole thing about what did I do? And I was worried what  
21 would happen if I told them. I was worried that they would  
22 kill the story and then Trump would try and get revenge on me  
23 and try and destroy me. And I was also worried that they would  
24 be concerned about sending me out on other interviews; that,  
25 you know, why -- and I didn't want to cause trouble. I just

N532Car5

Stevens - Direct

1 did not want to cause trouble for the magazine.

2 Q. I want to ask you a couple of questions about the story,  
3 but let me just -- I want to ask one other question about the  
4 assault. Before the butler came into the room, did Mr. Trump  
5 do anything to you that suggested he was going to stop on his  
6 own?

7 A. No.

8 Q. So let's talk about the story. Did this one-year  
9 anniversary story run as planned?

10 A. Yes, it did.

11 Q. How were you -- why did you allow that to happen given what  
12 he had done?

13 A. Well, the only way to stop him would have been to tell my  
14 top editors, which is something I definitely did not want to  
15 do.

16 Q. How, if at all, did that encounter in the room, how if at  
17 all did that appear in the story that ran?

18 A. The encounter in the room did not appear in the story.

19 Q. How, if at all, did your work at *People* magazine change  
20 after Mr. Trump assaulted you?

21 A. Well, the main reason I immediately went to my superior is  
22 to tell her that I never wanted to interview Donald Trump again  
23 and to take me off the Trump beat, and she did.

24 Q. How, if at all, did the assault affect how you conduct  
25 interviews going forward in your career?

N532Car5

Stevens - Direct

1 A. Well, I have to say that what happened -- how do I describe  
2 this? It really kind of had a profound effect on me. It's  
3 funny, even though something can last a few minutes, it can  
4 really affect you. And I think for me, professionally, I come  
5 from Canada, Canadians are known to be very kind and nice  
6 people, I believe. And I think for a long time I was trying to  
7 say to myself you are too nice, don't smile so much, don't be  
8 so kind, don't -- I'm known as a very nice journalist, nice  
9 reporter. Like when I interview people, I try to make them  
10 feel comfortable and have a nice conversation. Other  
11 journalists are often very more interrogating. That's not my  
12 style. But I told myself that should be my style. Maybe I  
13 shouldn't be so nice. Maybe just being a person smiling and  
14 nice brought that on to me. So that affected my interview  
15 style for a while.

16 Q. To be clear, Ms. Stoynoff, do you believe sitting here  
17 today that you did anything to invite what Donald Trump did to  
18 you that day?

19 A. No.

20 Q. Did you ever see Mr. Trump again?

21 A. Yes.

22 Q. Where?

23 A. A few months later, I'm not sure the month, we had a mutual  
24 friend, Oleg Cassini, the fashion designer, he had passed away,  
25 and he had a memorial, and both Donald and I were speaking at

N532Car5

Stevens - Direct

1 the memorial. Oleg was a friend of mine.

2 Q. Did you have any kind of private conversation or say  
3 anything to Mr. Trump that day?

4 A. Oh, no. I stayed away from him.

5 Q. What about members of his family?

6 A. Yes.

7 Q. What do you recall?

8 A. A couple of months later, later that year, in 2006, I'm  
9 estimating here, I was walking down the street by Trump Tower  
10 in New York, and I was with a friend of mine who was visiting  
11 from Toronto, and we were walking right by Trump Tower, and we  
12 saw Melania come out with baby Barron from the residence.

13 Q. Did the two of you chat?

14 A. Yes.

15 Q. What was said?

16 A. I said, Melania. She said, Natasha, why don't I see you  
17 anymore? Because they were used to me doing all the stories.  
18 And then, of course, what happened was there was the baby  
19 story, there was this story, there was that story and it wasn't  
20 me. So it was noticeable to her. And we just chatted for a  
21 little bit, and she introduced me to Barron, and that was  
22 pretty much it.

23 Q. Did you tell her the truth about why she didn't see you  
24 anymore?

25 A. No.

N532Car5

Stevens - Direct

1 Q. Do you recall what you said?

2 A. Do -- I didn't --

3 Q. Do you recall what you said in response to her question,  
4 Why don't we see you anymore?

5 A. Oh. I don't recall exactly. I probably just made up,  
6 well, I miss you, something like that. But I'm not exactly  
7 sure.

8 Q. I want to ask a few questions. I want to ask you a few  
9 questions about your politics, if that's okay, Ms. Stoynoff.

10 Would you describe yourself as a politically active  
11 person?

12 A. Not at all.

13 Q. Are you registered with a political party in the  
14 United States?

15 A. I am not.

16 Q. Do you vote in the United States?

17 A. I think -- well, I became an American citizen in my mid  
18 thirties, and I think I have only voted in maybe three  
19 elections.

20 Q. When you --

21 A. Not that I didn't want to vote for more, but I just didn't.

22 Q. Were those presidential elections or other elections?

23 A. They were presidential elections.

24 Q. Do you recall who you voted for?

25 A. I recall twice for President Obama. I can't remember what

N532Car5

Stevens - Direct

1 the third election was. I can't recall what it was, but I  
2 think I did vote a third time.

3 Q. Did you vote for Hillary Clinton when she ran against  
4 Donald Trump?

5 A. I did not.

6 Q. Do you recall, have you ever voted for any conservative  
7 candidates in Canada?

8 A. Yes, I have.

9 Q. Do you express your political views on Twitter at times?

10 A. Well, I don't really know enough about American politics to  
11 discuss them or express my political views. I don't -- I  
12 express more my feelings on the person. I can't really discuss  
13 policy well, I'm sorry to say.

14 Q. Let me ask you a more specific question. What did you  
15 think of Donald Trump as a president?

16 A. I thought he was terribly unfit.

17 Q. Do you -- have you tweeted about Donald Trump?

18 A. I'm certain I have.

19 Q. For example, have you called him an enemy of the people?

20 A. I don't recall, but that sounds like something I might say.

21 Q. Were you happy or sad when he was voted out of office?

22 A. Happy.

23 Q. Do you know -- just in terms of the other party in this  
24 case, do you know the plaintiff, E. Jean Carroll?

25 A. Yes.

N532Car5

Stevens - Direct

1 Q. How would you describe your relationship with Ms. Carroll?

2 A. We are friends. We are new friends.

3 Q. Has Ms. Carroll ever interviewed you?

4 A. Yes, she has.

5 Q. When was that?

6 A. In the summer of 2020 she began a series for *The Atlantic*  
7 magazine on several women who had been hurt by Donald Trump.

8 MR. FERRARA: Your Honor, I'm happy to move to strike  
9 that last portion of Ms. Stoynoff. I did not mean to elicit  
10 it.

11 THE COURT: The jury will disregard everything after  
12 "in the summer of 2020."

13 BY MR. FERRARA:

14 Q. Just focusing on the interview that Ms. Carroll did with  
15 you, Ms. Stoynoff, did she -- she interviewed you about your  
16 experience with Donald Trump?

17 A. Yes.

18 Q. What did -- on that topic, what -- do you recall what the  
19 two of you discussed?

20 A. Well, we talked about the incident and she also asked me  
21 about my background and my current professional world and my  
22 life.

23 Q. Did anything about that interview or doing that interview  
24 with Ms. Carroll change your recollection of what had happened  
25 between you and Donald Trump?

N532Car5

Stevens - Direct

1 A. No.

2 Q. At any point in that interview, did you believe that  
3 Ms. Carroll was trying to influence your memory of what had  
4 happened?

5 A. No, not at all.

6 Q. Have you followed developments -- are you aware that  
7 Ms. Carroll has sued Donald Trump? That's why you are here?

8 A. Yes.

9 Q. Have you followed the case?

10 A. Yes.

11 Q. Have you at times expressed public support for Ms. Carroll?

12 A. I'm sure I have.

13 Q. All right. So I want to turn back now to you and your  
14 life, sort of, as you -- sort of what developed after all of  
15 this.

16 Let's go back to October 2016. Did you publish an  
17 essay in *People* magazine around that time?

18 A. Yes, I did.

19 Q. What was that essay about.

20 A. It was about the incident at Mar-a-Lago that happened  
21 between Donald and me.

22 Q. Was that the first time you had spoken publicly about  
23 Donald Trump assaulting you?

24 A. Yes.

25 Q. Why did you write that essay?

N532Car5

Stevens - Direct

1 A. I wanted to warn the American people and the  
2 *Access Hollywood* tape had come out the week before, I think,  
3 and it horrified me. And then he did a debate the following  
4 week with Hillary Clinton, and Anderson Cooper asked him, Have  
5 you ever kissed a woman without consent? And he said no. And  
6 I thought if I was a voter -- I was a voter, but I would want  
7 to know if the candidate I was about to vote for was lying like  
8 this about hurting women.

9 MR. FERRARA: May I approach, your Honor?

10 THE COURT: Yes.

11 Q. Ms. Stoynoff, I want to show you what's been marked for  
12 identification as Plaintiff's Exhibit 25.

13 Do you recognize that?

14 A. Yes.

15 Q. What is that?

16 A. It is the *Access Hollywood* clip that you showed me.

17 Q. And how do you know?

18 A. I initialed and dated it.

19 Q. Let me also, if we could, put up on the screen, Mr. Lam,  
20 for the witness, what's been marked for identification as  
21 Plaintiff's Exhibit 25T.

22 Do you recognize this, Ms. Stoynoff?

23 A. Yes, it's the transcript of the *Access Hollywood* tape.

24 Q. Were you able to follow along with this transcript while  
25 you watched the video?

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1 A. Yes.

2 Q. Does the transcript fairly and accurately depict what is  
3 said on the video?

4 A. Yes, it does.

5 Q. Your Honor, plaintiff offers 25 and 25T.

6 MR. TACOPINA: Your Honor, obviously without waiving  
7 anything previous, objections we have, no objection.

8 THE COURT: But there is no authenticity issue,  
9 correct?

10 MR. TACOPINA: I'm even talking about before the  
11 trial, your Honor, but correct. No authenticity issue.

12 THE COURT: Okay. 25 and 25T are received.

13 (Plaintiff's Exhibits 25, 25T received in evidence)

14 THE COURT: Members of the jury, 25T, the transcript,  
15 is received on the same basis as all the other transcripts.  
16 It's the recording that is evidence.

17 MR. FERRARA: Your Honor, may I? For this, I printed  
18 copies I would like to ask to hand out to the jurors, and I can  
19 hand them up and I have plenty. May I hand the jurors some  
20 copies of the transcript?

21 THE COURT: Yes.

22 MR. FERRARA: Thank you.

23 BY MR. FERRARA:

24 Q. Mr. Lam, we can take this off the screen. We can take down  
25 25T. I think folks have copies. And if we could, let's play

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1 Plaintiff's 25.

2 (Video played)

3 BY MR. FERRARA:

4 Q. Thank you, Mr. Lam. We can bring that down.

5 You also -- sorry, Ms. Stoynoff, do you recall seeing  
6 at least a part of that tape sort of when it first aired?

7 A. Yes.

8 Q. Do you recall when that was?

9 A. Yes. It -- I think it aired -- first aired Friday  
10 afternoon, and I saw it almost immediately.

11 Q. What was your reaction when you saw that?

12 A. A combination of sick to my stomach and a little bit of --  
13 I don't know if this is the right word, but relief. Because I  
14 actually for the first time thought to myself, oh, he does this  
15 to a lot of women. It's not just me. It's not just something  
16 I did. And then the horrifying part to me was that I  
17 worried -- I worried that because I didn't say anything at the  
18 time, other women were hurt by him. So I had some regret  
19 there.

20 Q. Ms. Stoynoff, you also mentioned a debate that you watched.

21 A. Yes.

22 Q. Let me -- Mr. Lam, if we could just bring up what is in  
23 evidence as Plaintiff's Exhibit 26, and if we can just bring up  
24 the first image.

25 Ms. Stoynoff, is this the debate that you were

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1 referring to?

2 A. I believe so.

3 Q. Anderson Cooper was asking questions, is that the one?

4 A. Yes, this looks like the one.

5 Q. We don't have to play this again, but we can bring that  
6 down. Thank you, Mr. Lam.

7 How did you feel when you saw that debate?

8 A. Well, *People* magazine had asked me if I wanted to write  
9 something about what happened. By this time they knew, the top  
10 editors now knew. And after that *Access Hollywood* tape came  
11 out they asked me if I wanted to write something, and I said,  
12 you know what? He's got a debate next week. Let me see what  
13 he says. If he comes clean, if he is honest—because I know he  
14 will be asked about it—I'm not writing anything. And let me  
15 see what he says.

16 So when I saw it and Anderson Cooper asked him, Have  
17 you ever kissed a woman without consent, and he said no, I  
18 thought to myself, you liar. I just felt really upset that he  
19 was lying to the American people.

20 Q. Do you recall the date that your essay was published in  
21 *People* magazine?

22 A. Yes, October 12, 2016.

23 Q. Did Mr. Trump respond?

24 A. I believe his attorneys got in touch with the magazine and  
25 gave some sort of denial and he, he said something on his

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1 campaign trail and I think on Twitter.

2 Q. Let me show you --

3 MR. FERRARA: If I may approach, your Honor?

4 Q. I want to show you what's been marked for identification as  
5 Plaintiff's Exhibit 29. Do you recognize that?

6 A. Yes.

7 Q. What is that?

8 A. This is the -- this is him on the campaign trail, a clip of  
9 what he said about me.

10 Q. How do you know?

11 A. You showed this to me previously, and I initialed it.

12 Q. Let me also show you what's been marked for identification  
13 as Plaintiff's Exhibit 29T. Do you recognize this?

14 A. Yes. This is a transcript of this clip.

15 Q. Were you able to follow along while you watched the video?

16 A. Yes.

17 Q. Does it fairly and accurately depict what is said on the  
18 video?

19 A. Yes.

20 MR. FERRARA: Your Honor, plaintiffs offer 29 and 29T.

21 MR. TACOPINA: No objection, your Honor.

22 THE COURT: Received.

23 (Plaintiff's Exhibits 29, 29T received in evidence)

24 THE COURT: Same instruction regarding 29T, the  
25 transcript.

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1                   MR. FERRARA: Mr. Lam, if we could bring up 29,  
2 please, and we could play this. Thank you.

3                   (Video played)

4 BY MR. FERRARA:

5 Q. Ms. Stoynoff, did Mr. Trump assault you in a public area?

6 A. No, we were alone in the room.

7 Q. Why wasn't it part of the story that was published about  
8 the one-year anniversary?

9 A. That's just a crazy question. Because if my top editors  
10 knew what had happened, the story just would have been killed.  
11 That just would not be part of a "wedding, we are having a  
12 baby, we are having a happy marriage" story.

13 Q. What did you understand Mr. Trump to be saying when he  
14 said, Look at her, I don't think so?

15 A. I am assuming he means that I am unattractive.

16                   MR. FERRARA: May I have one moment, your Honor?

17                   (Counsel confer)

18                   MR. FERRARA: Nothing further, your Honor. Thank  
19 you.

20                   THE COURT: All right. Thank you.

21                   Cross-examination, Mr. Tacopina.

22                   MR. TACOPINA: Yes.

23                   MR. FERRARA: Your Honor, just quickly, I might just  
24 retrieve the exhibit from the witness stand.

25                   THE COURT: All right.

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1 CROSS-EXAMINATION

2 BY MR. TACOPINA:

3 Q. Good afternoon, Ms. Stoynoff.

4 A. Good afternoon, Mr. Tacopina.

5 Q. Mr. Seigel, you have no legal claim against Donald Trump  
6 before this jury, correct?

7 A. You mean am I suing him?

8 Q. You have no legal claim against Donald Trump before this  
9 jury?

10 A. No, I don't have anything --

11 Q. Thank you.

12 MR. TACOPINA: No further questions.

13 THE COURT: Okay. Anything else?

14 MR. FERRARA: No, your Honor.

15 THE COURT: You are excused, Ms. Stoynoff. Thank you.

16 (Witness excused)

17 THE COURT: What's next?

18 MS. KAPLAN: Next we are going to play the deposition  
19 designations from Mr. Trump's deposition.

20 THE COURT: From Mr. Trump's deposition. Okay.

21 This is sworn testimony given by Mr. Trump. Counsel  
22 will announce the date.

23 May I have a transcript, please?

24 MS. KAPLAN: Yes, you may, your Honor.

25 October 19, 2022, your Honor.

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1 (Video played)

2 MR. TACOPINA: Judge, we have to stop this for a  
3 second, please.

4 THE COURT: Stop it. What's the problem?

5 MR. TACOPINA: It's my understanding that this was --  
6 that you haven't ruled on this particular portion.

7 MS. KAPLAN: I spoke to Mr. Brandt who said he is no  
8 longer asserting relevancy.

9 MR. TACOPINA: Okay. That was still pending, the  
10 ruling. That's fine, your Honor.

11 THE COURT: Go ahead.

12 (Video played)

13 THE COURT: Let's pause right there.

14 We are going to break for the day, but I still want to  
15 talk to counsel afterward.

16 Ladies and gentlemen, 10:00 tomorrow morning.

17 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Okay. You can all be seated, please.

3 I just want to talk to you a little bit more about the  
4 schedule. It looks to me like we are on target to finish  
5 probably after lunch tomorrow, is that about right?

6 MS. KAPLAN: I agree, your Honor.

7 THE COURT: Okay. So far as -- let's go back to  
8 summations. I know I asked you this probably the day before  
9 yesterday, but I can't find my note, frankly. What are your  
10 thoughts about duration of summations? Ms. Carroll.

11 MS. KAPLAN: Your Honor, I think, I'm trying to -- I'm  
12 not 100 percent sure it's what I told you, but I think it's  
13 what I told you, that we were thinking two hours for closing  
14 and then about an hour for rebuttal.

15 THE COURT: And Mr. Tacopina.

16 MR. TACOPINA: Approximately two and a half hours,  
17 your Honor, give or take.

18 THE COURT: Okay. Then I'm going to propose the  
19 following. I will have the draft charge ready for you to  
20 either pick up or—if you give us e-mail addresses where you  
21 want it sent—sent to you 8:00 Monday morning. We will have  
22 the charge conference here 9:00 Monday morning, and then,  
23 assuming everybody's here, jury I mean, we will go into  
24 summations at 10:00 on Monday morning. We will shorten the  
25 lunch hour, and we will hope to get all the summations done, if

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I have computed right, before we are done for the day, and maybe even -- well, no, I take that back. That doesn't work. Here is what I am trying to accomplish. I think it will take an hour to deliver the charge approximately. So if we can finish the summations on Monday, then I will charge Tuesday morning, and the jury would go to deliberations immediately.

Any thoughts, objections, issues?

MS. KAPLAN: None on our side, your Honor.

THE COURT: Okay. Now, if people run over time, it may be necessary to shift all or part of the rebuttal into Tuesday morning, and I suspect nobody wants to do that. But that's within your control, not mine.

MS. KAPLAN: Yes, we understand, your Honor.

THE COURT: Mr. Tacopina, you got that?

MR. TACOPINA: I have it, yes, sir.

THE COURT: Okay. I don't really expect the charge is going to be very controversial, but there it is.

Mr. Seigel, you were rising.

MR. SEIGEL: On a separate matter if we are done with scheduling.

THE COURT: Separate matter.

MR. SEIGEL: If we are done with scheduling.

THE COURT: Mr. Craig, were you jumping up on scheduling? Sorry. You are not Mr. Craig, forgive me. I will get to know everybody by the time we are finished.

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1               Okay. What is it, Mr. Seigel?

2               MR. SEIGEL: Thank you, your Honor.

3               For purposes of the record, I don't want to belabor  
4 this. I know there has been extensive motion practice on this.  
5 We just wanted to renew our objection with regard to  
6 Ms. Stoynoff as it pertains to Rule 413 and move to strike her  
7 testimony, given our position that her testimony does not  
8 satisfy the threshold for admissibility under Rule 413.

9               THE COURT: Denied. The question for admissibility is  
10 whether a jury reasonably could find that there was a sexual  
11 assault on her, actual or attempted, and my conclusion is that  
12 the jury so could find. They are certainly not obliged to find  
13 it, but they certainly could find it based on her testimony and  
14 all the other evidence of record.

15               Okay. Thank you.

16               COUNSEL: Thank you.

17               (Adjourned to Thursday, May 4, 2023, at 10:00 a.m.)

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